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International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Consideration of reports submitted by States parties under article 9 of the Convention

Fourth to sixth periodic reports of States parties due in 2017

Montenegro*

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Introduction[1]

1. Montenegro is constitutionally defined as a civil, democratic, ecological and state of social justice, based on the rule of law. The bearer of sovereignty is a citizen who has Montenegrin citizenship. The Montenegrin Constitution provides the legal basis for the promotion, strengthening and enhancement of the protection of fundamental human rights and freedoms and confirms Montenegro's obligation to respect international standards in that context.

2. The latest Census of population, households and apartments was carried out in the period from 1 to 15 April 2011. According to the results of this Census,[2] in Montenegro there are 620,029 inhabitants, out of which 50.61% or 313.793 are women, and 49.39% or 306.236 are men.

According to MONSTAT statistics:

3. The population of Montenegro, according to the national affiliation, consists of: Montenegrins 278,865 (44.98%), Serbs 178,110 (28.73%), Yugoslavs 1,154 (0.19%), Albanians 30,439 (4.91%), Bosniaks 53,605 (8.65 %), Bosnians 427 (0,07%), Bosniaks/Muslims 181 (0,03%), Montenegrins/Muslims 175 (0.03%), Montenegrins/Serbs 1,833 (0.30%), Goranians 197 (0,%), Muslims/Bosniaks 183 (0,30%), Muslims/Montenegrins 257 (0.04%), Serbs/Montenegrins 2,103 (0.34%), Turks 104 (0.02%), Egyptians 2,054 (0.33%), Italians 135 (0,02%), Macedonians 900 (0.15%), Hungarians 337 (0.05%), Muslims 20,537 (3.34%), Germans 131 (0.02%), Roma 6,251 (1.01%), Russians 946 (0.15%), Slovenians 354 (0.06%), Croats 6,021 (0.97%), others 3,358 (0.54%) and undeclared 30,170 (4.87%).

4. The structure of the Montenegrin population according to religion[3] is: Orthodox 446,858 (72.07%), Catholic 21,299 (3.44%), Islamic 118,477 (19.08%), Adventist 894 (0.14%), Agnostic 451 (0.07%) Atheists 7,667 (1.24%), Buddhists 118 (0.02%), Christians 1.460 (0.24%), Jehovah's Witnesses 145 (0,02%), Protestant 143 (0.02%), other religions 6,337 (1.02%) and undeclared 16.180 (2.61%).

5. The language structure of the population in Montenegro according to mother tongue is: Serbian 265,895 (42.88%), Montenegrin 229,251 (36.97%), Albanian 32,671 (5.27%), Bosnian 33,077 (5.33%), Bosniak 3,662 (0.59%), Hungarian 225 (0.02%), Macedonian 529 (0,09%), German 129 (0.02%), Romani 5,169 (0.83%), Slovenian 107 (0.02%), Croatian 2,791 (0.45%), Montenegrin/Serbian 369 (0,02%), English 185 (0.03%), Croatian/Serbian 224 (0.04%), Mother tongue 3,318 (0.54%), Romanian 101 (0.02%), Russian 1,026 (0.17%), Serbo-Croatian 12,559 (2.03%), Serbo-Montenegrin 618 (0,10%), Regional languages 458 (0.07%), other languages 2,917 (0.47%), did not enter the unknown and 24,748 (3,99%),Russian 1,026 (0.17%), Serbian 12.559 (2.03%), Serbian-Montenegrin 618 (0,10%), Croatian / Serbian 224 (0,04%), Mother tongue 3.318), Regional languages 458 (0,07%), other languages 2,917 (0.47%), undeclared and unknown 24,748 (3.99%).

6. In Montenegro, the largest number of Roma live in the territory of Podgorica (3,988), then Berane (531), Nikšić (483), Bijelo Polje (334), Herceg Novi (258) and the largest number of Egyptians are located in Podgorica (685), Nikšić (446), Tivat (335) and Berane (170). Roma people in the world, speak a language of asystem that is made of around 60 dialects, often completely different. The most common dialect in Montenegro is Gurbet.[4]

[1] All the terms used in this report for a natural person in a masculine gender include the same terms in feminine gender

[2] Source: MONSTAT.

[3] Source: MONSTAT.

[4] http://www.monstat.org/cg/page.php?id=533&pageid=322

General Legal and Policy Framework relating to Elimination of Discrimination

International conventions acceded by Montenegro

7. In addition to the previously undertaken commitments and concluded contracts, in this reporting period Montenegro has ratified a certain number of international agreements that have an indirect or direct effect on the elimination of discrimination. Thus, on 30 July 2013, Montenegro ratified Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and Optional Protocol on Communication Procedures to the Convention on the Rights of the Child, and on 8 October 2013 it ratified Convention on the Reduction of Statelessness of 1961. Also, Montenegro ratified Convention on the Prevention and Suppression of Violence against Women and Domestic Violence on 22 April 2013.

Constitutional Framework for the Implementation of Human Rights and Freedoms

8. Constitutional framework for the implementation of human rights has remained unchanged in its entirety. It should be, however noted that Montenegro prescribes the primacy of international law (concluded, ratified and published international treaties) in relation to national legislation, i.e. that the provisions of these agreements apply directly when a matter is regulated differently from national legislation (Article 9 of the Constitution). Constitution also stipulates that rights and freedoms are exercised on the basis of the Constitution and ratified international treaties. Article 118 of the Montenegrin Constitution prescribes that national courts are judging on the basis of the Constitution, the laws and the ratified and published international treaties.

9. New Law on the Constitutional Court of Montenegro[1] provides for the possibility for the court (regular) to submit proposals for reviewing the conformity of laws with the Constitution and ratified and published international treaties (Article 54 paragraph 1 item 1 and paragraphs 2 and 3), or other regulations and general acts with the Constitution and law, as well as regulates the decision-making process of the Constitutional Court, in that case.

Institutional Framework for the Protection of Human Rights and Freedoms

10. In Montenegro there is a widespread network of institutional forms of protection of human rights and freedoms, whose basis is the institution Protector of Human Rights and Freedoms and judicial authorities, misdemeanor organs and inspection services. In addition, a number of other institutions is dealing with the protection of human rights and freedoms affecting the level of elimination of discrimination in society (such as the Committee for Human Rights and Freedoms of the Parliament of Montenegro, regulatory agencies for radio diffusion and personal data protection, Council for Civil Control of Police and the like).

11. In the executive system, *Ministry of Human and Minority Rights* (MHRM) has a key role in promoting and protecting human rights. Ministry performs administrative affairs related to: protection of human rights and freedoms, if such protection is not within the competence of other ministries; improvement and promotion of human rights and freedoms and protection against discrimination, monitoring the implementation of anti-discrimination legislation, education and promotion of anti-discrimination behaviour and practices. In addition, Ministry carries out the monitoring of the realization and protection of the rights of members of minority nations and other minority national communities in the part of their national, ethnic, cultural, linguistic and religious identity; it monitors the achievement of

[1] Službeni list Crne Gore", broj 11/15

gender equality, as well as the protection of the rights of religious communities in Montenegro; improvement of the status of Roma and their integration into society, as well as performs other tasks under its competence.

12. *Committee for Human Rights and Freedoms of the Parliament of Montenegro*, in accordance with its responsibilities to review draft laws, other regulations and general acts and other issues relating to: freedom and human and civil rights, with special emphasis on minority rights, the application of ratified international acts which are related to the protection and promotion of these rights; it monitors the execution of documents, measures and activities for improvement of national, ethnic and other equality.

13. *Protector of Human Rights and Freedoms of Montenegro* is an autonomous and independent institution whose task is to protect and promote human rights and freedoms when they are violated by an act, action or failure to act of an organ of public authority, and when it comes to the area of protection from discrimination its competence refers to the entire private and public sector.

14. By the Law on the Protector of Human Rights and Freedoms of Montenegro, Protector was established as an institutional mechanism for protection against discrimination and a national mechanism for the protection of persons deprived of their liberty from torture and other forms of cruel, inhuman or degrading treatment or punishment.

15. Protector, with the consent of the discriminated person, acts and undertakes measures for protection against discrimination, in accordance with this Law and a special law regulating the prohibition of discrimination. Whenever it deems necessary, Protector initiates a procedure for protection against discrimination before the court or in the proceedings acts as an intervener on the side of the discriminated person.

National Strategies

16. Strategic framework for minority policy in Montenegro is a ten-year "Strategy for Minority Policy" adopted on 3 July 2008. In line with comparative-legal international standards, this Strategy sets out the measures for implementing the Law on Minority Rights and Freedoms and improving the living conditions of minorities in general, which the state organs are obliged to gradually implement in the period of implementation of the document.

17. With regard to the improvement of the position of the Roma and Egyptian (RE) population, after the implementation of the Action Plan for the "*Decade for Social Inclusion 2005-2015*" and two implemented strategic documents in this area, in March 2016, Government of Montenegro adopted the "*Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016-2020*", which is implemented through one-year action plans. Strategy covers all areas considered to be important for solving the problems of the RE population, namely: legal status, social status and family protection (within which four sub-categories are defined: the fight against domestic violence and violence against women; prevention and suppression of begging; the fight against trafficking in human beings and the prevention of child illegal marriages), and the area of culture, identity and information.

18. In the area of education and training, on 19 November 2015, Government of Montenegro adopted "*Strategy for Preschool Education in Montenegro 2016-2020*", which sets out the goals and provides directions for development of preschool education. The guiding principle is to ensure the satisfaction of development needs with programmatically and infrastructural adequate services by the competent staff, for all children, from birth to school, with the active participation of parents and community. Strategy consists of three objectives: Increase the coverage of children within preschool education so to cover all children, especially from the age of 3 to school, in accordance with international standards; Improve the quality of pre-school education; Introduce innovative, optimal and sustainable financing models.

19. Also, at the end of 2013, Montenegrin Government adopted "*Strategy of Inclusive Education in Montenegro 2014-2018*", which defines the directions of development of

education and training systems for children with special educational needs, so to provide development and educational opportunities in order to train them for independent life.

20. Also, Government of Montenegro adopted "*National Housing Strategy 2011-2020*", with Action Plan for the period 2011-2015 in September 2011. After the end of the implementation period of this Action Plan, in December 2014, Government of Montenegro adopted Action Plan for "National Housing Strategy for the period 2015-2020". The main objective of National Housing Strategy is to define the course of further development of the housing sector through an analysis of the existing situation, establishing a vision within the housing sector, defining the mission and formulating housing policies.

21. Also, regarding the role of the civil sector in policymaking in Montenegro, there is continuous good cooperation between state organs and civil sector, resulting in significant participation of non-governmental and academic organizations in the development of strategic national documents that create national policies, as well as drafting normative acts regulating issues pertaining to human rights and freedoms, etc. Also, the representatives of the civil sector are members in practically all the bodies for the implementation of the strategic documents, and in the educational component of the implementation of these strategies they actively participate.

Asylum

22. Asylum system in Montenegro has begun to be implemented through the adoption of Law on Asylum, which entered into force in 2006, whose application began in 2007. However, in order to align with the European Union (EU) legislation and to implement "Common European Asylum System", in December 2016 Parliament of Montenegro adopted a new Law on International and Temporary Protection of Foreigners. Its application will begin on 1 January 2018. By adopting this Law, an efficient and unique asylum system will be established in Montenegro according to which the foreigners seeking international protection, like in EU countries, are provided with guarantees for equal opportunities for success in the proceedings as well as guarantees for equal treatment. Reason for adopting this Law was to provide faster, more effective and more cost efficient proceeding as well as to provide for the possibility to prevent abuse of the proceeding and sanction such behaviour.

23. In order to create the conditions for a successful performance of the affairs regarding control of movement and stay of foreigners in accordance with EU standards and recommendations, as well as more effective fight against irregular migration, Border Police Department — Police Directorate has continued its activities in establishing Reception Center for Foreigners with the assistance of International Organization for Migration (IOM) through project "Support to migration management in Montenegro".

24. In relation to **Committee's Recommendation No. 16 from the final considerations of the combined Second and Third Montenegrin Report**, were taken measures on its realization. Namely, the care for persons from the asylum system is carried out by Ministry of Labor and Social Welfare. Persons applying for asylum in Montenegro have been accommodated in Asylum Seekers' Center with a capacity of 65 beds, with the possibility of increasing capacity to 100 places if necessary. Center is operational since 20 February 2014 and provides asylum seekers with accommodation, three meals and medical care.

25. Also, in Spuž, in 2013, was opened Reception center for illegal immigrants, with a capacity of 46 seats. In this center are accommodated immigrants found in the territory of Montenegro, who illegally crossed the state border, for who the identity cannot be determined, nor return to their home country can be provided. Most of them are from the area of Afro-Asian complex. In 2012, 219 foreign nationals were accommodated, in 2013, 75, in 2014, 42, in 2015, 112, and 132 foreign nationals in 2016.

26. For more effective implementation of readmission agreements, which Montenegro has concluded with countries with which it borders, it is provided that a competent organ of the contracting parties can accept without formalities and delays (in simplified procedure) a

third country national or a stateless person if he/she is deprived of liberty in the territory of the other contracting party within seventy-two (72) hours after the illegal crossing of the state border (this procedure is under Ministry of Internal Affairs — Police Directorate). If the acceptance of a person in a simplified procedure is rejected, acceptance can be requested in a regular procedure (this procedure is the responsibility of the Ministry of Internal Affairs (MIA)).

National Minorities and Minority Communities

27. On 27 April 2017, Parliament of Montenegro adopted *Law on Amendments to the Law on Minority Rights* and *Freedom*,[6] which is fully in line with recommendations of Council of Europe Venice Commission.

28. Pursuant to Law on Amendments to the Law on Minority Rights and Freedoms, Fund for the Protection and Realization of Minority Rights has been reformed and the reforms are focused on preventing an objectively possible conflict of interest, introduction of two-level decision-making process at projects funded from Fund's assets, as well as quality of monitoring and evaluation of supported projects. Article 8a of this Law stipulates that for promotion and protection of minority rights, promotion of the preservation, development and expression of culture of minority nations and other minority national communities in Montenegro and encouragement of spirit of tolerance and intercultural dialogue and mutual respect and understanding, Government is establishing a public institution, under the conditions stipulated by law regulating cultural institutions (Center for Preservation and Development of the Culture of Minorities). Supervision over the work of this institution is performed by the state administration body responsible for human and minority rights (MHMR).

29. Also, this Law foresees strengthening of minority councils capacity and in this regard it should be emphasized that for the functioning and realization of program content, will be provided funds in the amount of at least 0.05% of the current budget.

30. This Law specifies certain terms more precisely and thus "a significant part" is replaced by the words "at least 5%", so in local self-government units in which members of minority nations and other minority national communities make up to 5% of the population in official use will be the language of these minority nations and other minority national communities as well.

31. In local self-government units where majority or at least 5% of the population is minority nation or other minority national community, local self-government is obliged to, within the framework of plan and program for effective participation of local population in public affairs or through the adoption of a special plan and program, through councils of relevant minority nations and other minority national communities, provide conditions for participation of minority nations and other minority national communities in the adoption of municipal development programs, spatial and urban plans, budgets and general acts defining the rights and obligations of citizens and define manner and procedure of participation of minority nations and other minority national communities in performance of public affairs, and to designate an organ to conduct public debate on these and other acts.

Gender Equality

32. Constitution of Montenegro determined that state is guaranteeing equality of women and men and is developing policy of equal opportunities (Article 18). In this connection is constitutional principle of prohibition of any direct or indirect discrimination on any grounds.

[6] Official Gazette of the Republic of Montenegro, No. 031/06 of 12.05.2006, 051/06 of 04.08.2006, 038/07 of 22.06.2007, Official Gazette of Montenegro, No. 002/11 of 12.01.2011, 008/11 of 04.02.2011, 031/17 of 12.05.2017.

33. Law on Gender Equality from 2007 was innovated in 2015 and it defined that Protector of Human Rights and Freedoms deals with complaints on gender discrimination. Scope of sanctions pertaining to gender discrimination and violation of the principle of equal treatment of men and women in certain areas of life, including discrimination against women due to pregnancy, has been extended. This Law is in line with Law on Prohibition of Discrimination, Law on the Protector of Human Rights and Freedoms of Montenegro, as well as EU directives. This primarily refers to harmonization in line with EU standards of definitions of discrimination based on sex with the definitions of direct and indirect discrimination.

34. The most important document for gender equality policy implementation is *Action Plan for Gender Equality in Montenegro*. So far, 3 Action Plans for Gender Equality have been adopted for period 2008-2012, for period 2013-2017 and in March 2017, third "*Action Plan for Gender* Equality *in Montenegro 2017-2021*", which outlined the areas of action: 1. Promotion of Human Rights of Women and Gender Equality, 2. Gender- Sensitive Education and Training, 3 Gender Equality in the Economy 4. Gender-Sensitive Health Care, 5. Gender-Based Violence, 6. Media, Culture and Sport, 7. Equality in the Decision-Making Process in Political and Public Life, and 8. Institutional Mechanisms for Gender Equality Policy Implementation.

35. In addition to three institutional mechanisms for achieving gender equality: Committee for Gender Equality of the Parliament of Montenegro, Department for Gender Equality at the Ministry of Human and Minority Rights and Protector of Human Rights and Freedoms of Montenegro, the issues of gender equality are also dealt by coordinators for gender equality, appointed in state institutions (105) and in 21 municipalities. In 2016, a new institutional mechanism for implementing gender equality policy was established — National Council for Gender Equality as an expert advisory body to address issues of implementation of gender equality policy at national and local level. Minister of Human and Minority Rights chairs Council, which also includes 4 members of NGOs.

36. In 14 Montenegrin municipalities, where elections were held in April 2014, average representation of women was 26.52%, which is an increase from the previous 15%. In 4 municipalities this percentage exceeds 32%. According to electoral legislation, it is stipulated that one of out of four candidates must be representative of less represented sex, as well that that person, if situation requires, should be replaced by person from less represented sex.

37. After last parliamentary elections of 2016, 19 members of Parliament of Montenegro out of 81, were women, what makes 23.46%, and represent an increase compared to previous convocation when there were 15 women or 18.5%. Average percentage of women at position of judge is 63%, while holders of prosecutor's functions are 60% women. In newly-formed Montenegrin Government, since November 2016, out of 19 ministers' positions there are four women ministers (21.05%).

38. Over past several years in Montenegro, in prevention and suppression of violence against women and access of women to judiciary, significant progress has been made on legislative plan as well as on plan to raise public awareness about problem of violence against women. *Law on Protection from Domestic Violence*[7] (2010) and *two Strategies for protection from domestic violence* (2011, 2015) were adopted, and was signed *Protocol on the procedure in cases of domestic violence* among all relevant institutions (2011).

39. Since adoption of Law on Protection against Domestic Violence, there has been an increase in the number of reported cases of domestic violence and violence against women, which indicates that Law applies in practice. This Law also prescribes obligation of police, misdemeanour organs, state prosecutor, centers for social work or other social and child welfare institutions, health institutions, as well as other organs and institutions involved in protection, to provide full and coordinated protection of victims of domestic violence, and also regulates the issue of formation and work of multidisciplinary teams and principle of

[7] Official Gazette of Montenegro, No. 046/10 of 06.08.2010, 040/11 of 08.08.2011.

their cooperation. *Law on Misdemeanors*[8] provides for protective measures for preventive action against the perpetrator of domestic violence and at same time protects victims of violence.

40. In 2015, *Law on Amendments to the Law on Free Legal Aid*[9] was adopted, which provides victims of domestic violence with right to free legal aid. *Law on Compensation of Damages for Victims of Criminal Offenses of Violence*[10] by which victims of criminal offenses of domestic violence have been granted right to an adequate compensation of damages.

41. Every year MHMR is conducting campaign of 16 days of activism in fight against violence against women and domestic violence. Ministry continuously carries out trainings on fight against violence against women and domestic violence for different target groups (holders of judicial functions, members of multidisciplinary teams, teachers and professors, media representatives, students etc.).

Particular form of violence against women/girls is practice of early-forced marriages, which is particularly present in RE population. Government of Montenegro has adopted a new Strategy for the Social Inclusion of Roma and Egyptians 2016-2020, which deals with this issue.

42. In 2017, Montenegro adopted a *National Implementation Plan for UN Resolution 1325 "Women, Peace and Security"*, which aims to ensure the integrity of the gender perspective in the security system through increased participation of women in decision-making and peace processes; protection of women and girls in conflict zones, as well as the integration of gender perspective and gender education into peacekeeping operations.

43. In Montenegro, in previous period, a significant gender equality policy was promoted within local self-government. 23 memorandums of cooperation with all Municipalities (signed by MHMR, OSCE Mission to Montenegro and Municipalities) have been signed. Coordinators were appointed in 21 municipalities, 16 municipalities adopted Decision on Gender Equality. In 12 municipalities, Councils for Gender Equality have been formed, and so far five Gender Equality Offices have been formed in five municipalities. In 11 municipalities, Local Action Plans were adopted, while in seven municipalities' gender budgeting was recognized.

44. European Commission has approved project "Supporting Anti-Discrimination and Equal Opportunities Policies" as a continuation of IPA 2010 Program, which began to be implemented from 2016 through a joint partnership between MHMR, Ministry of Justice, Council of Europe and UNDP, and in particular it is implemented in areas of economic empowerment of women, political participation and the fight against violence against women.

45. Co-operation with NGO sector is continuous. Cooperation is formalized through the signing of a memorandum of cooperation. Memorandums were signed with nine NGOs providing social services to victims of domestic violence, Montenegrin entrepreneurs association and NGO "Women's rights center". Activities are also conducted through joint campaigns, training, research and realization of projects funded by international organizations.

[8] Official Gazette of Montenegro, No. 001/11 of 11.01.2011, 006/11 of 25.01.2011, 039/11 of 04.08.2011, 032/14 of 30.07.2014.

[9] Official Gazette of Montenegro, No. 020/11 of 15.04.2011, 020/15 of 24.04.2015.

[10] Official Gazette of Montenegro, No. 035/15 of 07.07.2015.

Legal protection from discrimination and system of measures for its suppression

Article 2 of the Convention

46. Foundation of legal protection against discrimination in Montenegro is constituted of constitutional guarantees on the primacy and immediate application of international norms in relation to domestic legislation. Thus, UN Convention on the Elimination of All Forms of Racial Discrimination, as a legally binding instrument, is incorporated into Montenegrin legal framework and forms part of its substantive law. Apart from court protection in which human rights and freedoms in Montenegro are realized, on this basis, it is possible to request protection before Constitutional Court which decides upon lodged constitutional complaints after the exhaustion of all permitted and effective legal means in national law. Constitution, in Article 6, guarantees inviolability of human rights and freedoms, prohibition of incitement to hatred (Article 7), prohibition of discrimination — direct and indirect — on any grounds (Article 8).

47. In relation to **Recommendation of the Committee No. 6 from the final considerations on the Second and Third Combined Report of Montenegro**, amendments to *Law on Prohibition of Discrimination*[11] of 2014 were made, further enhancing legislative framework in this area and further aligning it with international treaties. New Amendments specifically regulate through Article 17 "Racial Discrimination and Discrimination Based on Religion and Belief" (with which was adopted Race Directive — Council Directive 2000/43, on application of principle of equality of persons regardless of their racial or ethnic origin). Also, was introduced an Article defining and explicitly forbidding "hate speech", for which very high sanctions are prescribed:

> *"Racial discrimination and discrimination based on religion and belief*
>
> *Article 17*
>
> *Racial discrimination is any differentiation, unequal treatment or bringing in unequal position of persons with the belief that race, skin color, language, nationality or national or ethnic origin, justify depreciation of person or group of persons, or justify the idea on superiority of a person or group of persons towards those who are not members of that group.*
>
> *Discrimination on the basis of religion or belief is any treatment which is against the principle of freedom of religion, that is every unequal treatment, differentiation, or bringing in unequal position of persons on the basis of religion or personal belief, as well as on the basis of belonging or not belonging to a certain religious community."*
>
> *"Hate speech*
>
> *Article 9a*
>
> *Hate speech is any form of expression of ideas, statements, information and opinions that spreads, stirs up, encourages or justifies discrimination, hatred or violence against a person or group of persons because of their personal characteristics, xenophobia, racial hatred, anti-Semitism or other forms of hatred based on intolerance, including intolerance expressed in form of nationalism, discrimination and hostility against minorities."*

48. MHMR has prepared a new Proposal Law on Amendments to the Law on Prohibition of Discrimination. Proposal has significantly improved existing legal solution by supplementing exhaustive list of known grounds and areas of prohibition of discrimination, by introducing new provisions, by defining practices that are not considered as discrimination, by reinforcing sanction policy as well as further aligning existing norms with EU Directives. In particular, a provision that defines "racial discrimination" explicitly

[11] Official Gazette of Montenegro, No. 046/10, 040/11, 018/14.

in fields of education, labor, employment and choice of profession, vocational training, social protection and social benefits, health care and housing, access to commodities and goods, procurement of goods or provision of public services and in both public and private sector, will be introduced, thus making full alignment with EC Directive.

49. In relation to the **Recommendation of the Committee No. 10 from the final considerations on the Second and Third Combined Report of Montenegro**, Institution of the Protector of Human Rights and Freedoms of Montenegro was strengthened through adoption of *Law on Amendments to the Law on the Protector of Human Rights and Freedoms of Montenegro*[12] in July 2014.

50. Key novelties of this Law refer to election, immunity, competence and financial independence of Protector. It was provided a more transparent procedure for selection of candidates for Protector by the President of State who is required to consult with scientific and professional institutions and representatives of non-governmental organizations whose core activity is the protection of human rights and freedoms.

51. Obligation to receive visit of Protector at his/her request without delay was introduced, and this obligation is extended to all the heads of organs with which Protector will have the possibility of direct meeting. Powers in performance of duties of protection from torture were expanded in a way so to enable advisers and members of Working Body established by Protector, to by the authority of Protector, visit closed institutions and at same time do not have to pre-announce visit to respective organ, institution and organization in which visit will take place. (These amendments are in line with Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the Convention). Therefore, amendments made allow unrestricted access to the Protector, Deputy, Chief Advisor, Advisor and members of Working Body, to all premises of institutions, organs or organizations, as well as access to the required documentation, without limitation and regardless of the marked degree of secrecy.

52. In line with Amendments to Law on Prohibition of Discrimination, Protector's powers have been significantly expanded and enhanced, in particular within his competencies as a national institutional mechanism for protection against all forms of discrimination. According to this Law, Protector is dealing with complaints if no court proceedings have been initiated; provides information to discriminated persons (by both natural or legal persons) about their rights and the possibilities of resolving the problem; conducts conciliation procedure; initiates proceedings before court or is an intervener in proceedings (for a group of persons with the same characteristics); keeps a special record of filed complaints; collects and analyzes data on discrimination cases submitted to it by police, prosecutor, courts, misdemeanor courts and inspection bodies; undertakes activities to promote equality, etc. It is also significant that deadline for filing a lawsuit, before court, was extended from 90 days to one year from day of cognition about commission of discrimination and no later than three years from day on which discrimination was committed; that an additional Article defining persons who can file a lawsuit with the stance that also situational testing of the existence of discrimination may be grounds for filing a lawsuit for protection against discrimination, and that provided sanction provisions for discrimination are enhanced and specified and range from 500-20.000 €. Also, has been introduced a provision to ensure permanent protection of employees in Institution of the Protector (immunity) from any sanctions or damages that they might possibly suffer because of opinions and recommendations made in accordance with their authority prescribed by Law.

53. Protector, in accordance with law regulating rights, obligations and responsibilities of civil servants and employees, as well as in accordance with approved budget funds, decides upon the employment, rights, obligations and responsibilities of employees in the Service. When deciding on employment of professional personnel, i.e., chief advisor and advisor in institution of the Protector, Protector, in contrary, is not required to obtain a certificate on secured financial resources from the ministry responsible for budget affairs. These new titles in Professional Service of the Protector also significantly improve position

[12] Official Gazette of Montenegro, No. 42/11 and 32/14

of employees in this institution and equalize them with judges of Constitutional Court of Montenegro.

54. With regard to achievement of greater "financial independence" amendments to the Law improved the financial autonomy and independence of Protector. With regard to availability of financial resources, Protector decides independently, according to dynamics established by Law on Budget, which is within the competence of Ministry of Finance.

55. After adoption of Amendments to the Law on Protector, accreditation to the International Coordinating Committee of National Institutions (GANHRI) for human rights was submitted on 23 June 2015 and after completion of the accreditation procedure, it was granted the status "B".

56. In relation to **Recommendation of the Committee No. 11 from the final considerations on the Second and Third Combined** Report **of Montenegro**, measures are taken to raise level of awareness on prohibition of racial discrimination and hatred motivated by the race at the national level, as well as on obligation to legally prosecute such cases, and on activities focusing on education and capacity strengthening of institutions to adequately process the cases in question.

57. In 2011, in accordance with Plan for Education on Implementation of anti-discrimination legislation, and in cooperation with OSCE, the MHMR started with training for Judicial Employees, Police, Inspection Bodies and other institutions coming into contact with cases of discrimination. Training cycles are implemented every year through realization of 6 seminars + 6 workshops. Training is providing knowledge in the field of effective protection against discrimination as well as respect for international standards in this field.

58. Until this year, six educational cycles were carried out on implementation of anti-discrimination legislation, attended by representatives of independent institutions and non-governmental organizations, representatives of all inspection services, representatives of all police centers in Montenegro, as well as representatives of competent local self-government bodies, misdemeanor courts, and representatives of state prosecutor and representatives of centers for social work. In 2017, a cycle of seminars and workshops will be attended by representatives of state bodies and institutions who are competent to deal with vulnerable social groups and need to have knowledge in area of recognizing discrimination and providing the necessary protection and sensibility in dealing with vulnerable groups. Also, MHMR has been pursuing, in continuity from 2011 to 2016, extensive anti-discrimination campaigns aimed at raising the awareness of Montenegrin citizens about prohibition of discrimination and promotion of anti-discrimination behavior and practices. Focus of campaigns is to prohibit discrimination against most vulnerable social groups such as: RE, persons with disabilities, LGBT persons, etc., with the aim to introduce widest population and members of vulnerable social groups in their legal rights. Campaigns include development of visual identity, broadcasting of TV spots, radio jingles, publishing newspaper advertisements, insertion of fliers in circulation of daily newspapers (adapted to persons with impaired vision, i.e. printed in Braille), and placing billboards at most popular places in Montenegro.

59. Center for Education in Courts and State Prosecution conducts continuous training of representatives of courts and State Prosecution. In the previous period, it has conducted or may be associated with several trainings related to racism, equal treatment and non-discrimination, such as: "Protection against discrimination in the practice of the Constitutional Court of Montenegro", which was implemented within the framework of project "Types of Discrimination in Practice of the Constitutional Court of Montenegro — Comparative Analysis with the Case Law of the European Court of Human Rights and the European Court of Justice" (2014), conducted by Institute for Legal Studies with a view to further advance anti-discrimination policies in Montenegro; Regional training for holders of judicial powers and police officers on hate crimes, crimes motivated by prejudices and violence against LGBTI persons (2014). German Organization for Technical Cooperation — GIZ, organised a regional conference on "Legal Protection against Discrimination in South East Europe" (2016). Also, in 2016, in Podgorica, a conference on "Strengthening the Court Practice in Combating Discrimination" was organized with the support of the

German Embassy in Montenegro. For purpose of implementing four distance learning courses on various topics related to European Convention on Human Rights in the period from January to December 2017, Center for Education in Courts and State Prosecution conducted a training for lecturers/tutors under "Horizontal Facility for Western Balkans and Turkey". Focus of training for lecturers/tutors was on topics related to human rights, information technology and methodology. One of the thematic areas was hate crime and hate speech that was conducted in co-operation with OSCE Office for Democratic Institutions and Human Rights. Training participants were judges, state prosecutors, representatives of Advocacy Chamber, Office of the Ombudsman and Office of the Agent of Montenegro before the European Court of Human Rights.

60. Organized by Police Academy and Police Directorate (PD) in 2012, were held seminars on "Work and functioning of a shelter for foreigners" for officers of the Border Police Section (BPS) (for 45 police officers); "Implementation of applicable regulations, measures towards foreigners, visa regime, stay of foreigners, examples from practice", for officers of BPS (for 30 police officers); "Police in Democracy" for officers of the Police Sector of General Jurisdiction (for 19 police officers).

61. In 2013, members of PD participated in the following trainings: "The work of the police from the aspect of gender sensitivity" for 14 Heads of PD; "Training of trainers for the implementation of TAHCLE (Training against Hate Crimes for Law Enforcement) for 16 participants — 13 police officers, a representative of the NGOs Juventas and two officers of the Police Academy; "Prohibition of Discrimination" for 13 police officers.

62. In 2014, members of PD participated in the following trainings: "Procedure with Asylum Seekers in the Shelter for Foreigners and International Asylum Standards", for 8 Officials of Foreigners' Police Officers, "Regulations governing the Work of Foreigners", for 8 police officers from the Shelter for Foreigners, "Training of Police Officers for Sensitive Work with the LGBT Community" for 16 police officers, "Treatment of Persons Detained in Police Facilities" (24 attendees — 21 police officers and three lecturers from the Police Academy); Workshop "Fighting hate crimes" for 12 police officers.

63. In 2015, members of PD participated in the following trainings: "Training on Asylum System — Application of the Law on Asylum and asylum procedures" for the officers of the BPS and the Police Sector of General Jurisdiction (ten one-day seminars for 221 participants); "Discrimination — Police Approach to Discrimination" for 35 police officers; "Prohibition of Discrimination" for 2 police officers; "Work with the LGBT population" for 35 police officers; "Treatment of persons detained in police facilities" for 27 police officers.

64. In 2016, members of PD participated in the following trainings: "Prevention and Measures to Combat Violence in the Social Environment" for 23 police officers; "Contribution to improving the quality of life of LGBT persons in Montenegro" for 24 police officers, "Prohibition of discrimination" for 2 police officers, "Human Rights and Freedoms in Montenegro" for 3 police officers, "Strengthening the integrity of police officers" for 323 police officers; "Equality of Sexes in Police" for 4 police officers; "Human Rights in Application of Force in Deprivation of Liberty" for 23 police officers.

Also, the PD has actively participated in seminars organized by MHMR within framework of the "Program of education on protection from discrimination".

Article 3 of the Convention

65. Law on Prohibition of Discrimination establishes notion of segregation in Article 9 as follows:

> *"Segregation shall also be considered as discrimination in the sense of Article 2 of this Law. Segregation is every act, activity or failure to perform an activity, whereby forced or systemic separation or differentiation of persons is carried out on any of the grounds from paragraph 2 of Article 2 of this Law."*

Also, the "concept of segregation" has changed, which, as well as direct discrimination, has no justification.

Article 4 of the Convention

66. In relation to Recommendation of the Committee that signatory states should amend its legislation so to declare organizations promoting and inciting racial discrimination as illegal, we remind that Article 55 paragraph 1 of Montenegrin Constitution prescribes:

> *"The operation of political and other organizations directed towards forceful destruction of the constitutional order, infringement of the territorial integrity of Montenegro, violation of guaranteed freedoms and rights or instigating national, racial, religious and other hatred and intolerance shall be prohibited."*

67. Pursuant to Article 149 paragraph 1 item 6 of Montenegrin Constitution, Constitutional Court decides on the ban of the work of a political party or a non-governmental organization.

68. In relation to **Recommendation of the Committee No. 8 from the final considerations on the Combined Second and Third Report of Montenegro**, amendments were made in the criminal legislation. In Chapter III of *Criminal Code of Montenegro*[11] (CCM), Article 42a prescribes a special circumstance for sentencing for a criminal offense committed out of hatred, which reads:

> *"If a criminal offence is committed from hate based on race or religion, national or ethnic affiliation, sex, sexual orientation or gender identity of another, the court shall consider such circumstance as aggravating except when it is not stipulated as a feature of the criminal offence".*

69. According to Proposal of Amendments of the CCM prepared by the Ministry of Justice, which compliance with the suggestions and comments given by the European Commission on Proposal Law is underway, the following further amendments to Article 42a are envisaged:

> 1. *If a criminal offense is committed out hatred toward other person because of national or ethnic belonging, belonging to race or religion or because of absence of such belonging, disability, sex, sexual orientation or gender identity, the court will consider this circumstance as aggravating, unless it is prescribed as a characteristic of the basic or severe form of criminal offense.*
>
> 2. *If a criminal offense is committed against a person who belongs to a particularly vulnerable category of persons (children, persons with disabilities, pregnant women, elderly persons, refugees), the court will take this circumstance as aggravating.*

70. It should be added here that discrimination in legal order of Montenegro is subject to criminal prosecution. However, with respect to information from Second and Third Report of Montenegro on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, submitted by Montenegro to Committee for the Elimination of All Forms of Racial Discrimination, there were no normative changes other than those mentioned in this Report.

71. It should also be noted that Article 62 of *Code of Criminal Procedure*[12] prescribes that injured party as a prosecutor has same rights as a state prosecutor, other than those which, according to law, exclusively belong to state prosecutor as the holder of sovereignty of authorities or a state organ.

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[11] Official Gazette of the Republic of Montenegro, No. 70/2003, 13/2004, 47/2006 and Official Gazette of Montenegro, No. 40/2008, 25/2010, 32/2011, 64/2011 — other laws, 40/2013, 56/2013, 14/2015 42/2015 i 58/2015 — other laws.

[12] Official Gazette of Montenegro, No. 057/09 of 18.08.2009, 049/10 of 13.08.2010, 047/14 of 07.11.2014, 002/15 of 16.01.2015, 035/15 of 07.07.2015, 058/15 of 09.10.2015.

72. In relation to **Recommendation of the Committee No. 9 from the Final Considerations on Combined Second and Third** Report **of Montenegro**, follows an overview of statistics of police, judiciary as well as Protector of Human Rights and Freedoms in relation to processed cases of racial discrimination.

73. According to PD data during 2013/2014, police organs registered four criminal offenses of causing national, racial and religious hatred. In 2015 were registered two criminal offenses of racial and other discrimination, which refers to a person who on the basis of differences in race, skin color, nationality, ethnic origin or other personal characteristic violates fundamental human rights and freedoms guaranteed by the generally accepted rules of international law and international treaties ratified by Montenegro.

74. **In 2015**, PD has, pursuant to Article 23 of Law on Amendments to the Law on Prohibition of Discrimination, registered 128 charges for discrimination (123 charges for discrimination based on sexual orientation, five on basis of religious affiliation and three on basis of national affiliation) by which were charged 135 persons. To Prosecutors have been submitted 50 charges for discrimination for opinion, and a total of 128 persons were registered as victims of discrimination, of which 127 were men; **in 2014**, were filed 21 charges for discrimination (15 charges for discrimination on basis of sexual orientation, two on religious affiliation and four on basis of national affiliation), by which 28 persons were charged (13 are unknown perpetrators). To Prosecutors were submitted the dossiers for two charges for discrimination for assessment and opinion. Basic State Prosecution prequalified two charges for discrimination into criminal offense — Article 399 CCM (Violent Behavior) and Article 168 CCM (Endangering Security). In total, 21 persons were registered as victims of discrimination, of whom 20 were man; **in 2015**, 19 charges for discrimination were failed, of which 13 charges were against unknown perpetrator (16 charges for discrimination based on sexual orientation, three based on national affiliation), charging 22 persons. Deputy Basic State Prosecutor (DBSP) prequalified three charges into criminal offense — two in Article 433 of CCM (Racial and other Discrimination) and one in Article 168 of CCM (Endangering Security), and in four cases DBSP pleaded that there are no elements of criminal offense and misdemeanor. Were processed 15 charges. A number of perpetrators (seven), in spite the taken measures, were not identified, because profiles on Facebook were canceled; **in 2016**, there were 45 charges related to discrimination, of which 39 involved unknown perpetrators. Of 45 charges for discrimination, one charge was submitted on basis of race, three on the national affiliation and others on the basis of sexual orientation. Of 45 persons filing charges for discrimination, only three were women. Were filed 13 misdemeanor charges, of which one on national basis, one on religious and 11 based on sexual orientation, of which Misdemeanor Court in Podgorica solved one case and acquitted a reported person, who was suspected of sexual discrimination. Structure of misdemeanor charges: Article 7 of Law on Public Peace and Order: 4; Article 8 of Law on Public Peace and Order: 1; Article 17 of Law on Public Peace and Order: 2; Article 19 of Law on Public Peace and Order: 6. Three criminal charges were filed — two based on Article 399 and one on Article 166, two of which are filed on racial or religious basis, and Basic State Prosecutor has been sent 9 charges for assessment and decision making.

75. Article 19 of Law on Public Peace and Order stipulates that anyone who, in a public place offends another person based on national, racial or religious affiliation, ethnic origin or other personal characteristic by speaking, making inscriptions, signs or otherwise, shall be punished with a fine of EUR 250 up to EUR 1,500 or imprisonment up to 60 days.

76. According to PD data in 2012, 2013, 2014, 2015 and 2016, following cases of violation of Article 19 of the Law on Public Peace and Order were registered: **during 2012**, 4 misdemeanors were committed by 6 perpetrators, against 6 injured; **during 2013**, 11 misdemeanors were committed by 10 perpetrators against 10 injured; **during 2014**, 11 misdemeanors were committed by 15 perpetrators, against 17 injured; **during 2015**, 21 misdemeanors were committed by 21 perpetrators, against 7 injured; **during 2016**, 14 misdemeanors were committed by 18 perpetrators, against 18 injured.

77. Article 4, Paragraph 1, Items 4 and 5 of Law on the Prevention of Violence and Misconduct on Sports Events prescribe that under the violence and misconduct of participants in sporting events, within meaning of this Law, shall be understood in item 4 — caring in and display of banners, flags or other objects with inscription, image, sign or

other feature that invites or encourages physical conflict, national, racial, religious or other hatred or intolerance; in item 5 — chanting and singing songs of pernicious content that invoke or encourage physical conflict, national, racial, religious and other hatred or intolerance.

78. According to the PD data in 2013, 2014, 2015 and 2016, the following cases of violation of Article 4, Paragraph 1, Items 4 and 5 of Law on the Prevention of Violence and Misconduct on Sport Events were registered: **during 2013**, 1 misdemeanor was committed by six perpetrators, against 2 injured; **during 2014**, 1 misdemeanor was committed by 1 perpetrator, against 1 injured; **during 2015** 1 misdemeanor was committed by 2 perpetrators, against 1 injured; **during 2016**, 1 misdemeanor was committed by 1 perpetrator, against 1 injured.

79. According to information received from Supreme Court of Montenegro in period from 2014 to 1 May 2017, criminal cases of racial discrimination have been prosecuted in accordance with Articles 158, 159, 160, 199, 170 and 443 of CCM and litigation proceedings initiated in accordance with Law on Prohibition of Discrimination (on the grounds of racial discrimination), as well as in compliance with Law on Public Peace and Order.

80. When it comes to basic courts in Montenegro, one case for racial discrimination was established in the Podgorica Basic Court, for Article 199 of the CCM. This case led under the working code No. K.br. 796/14 was finally decided on 05.11.2015, by a conviction — a fine in the amount of 3.000,00 €.

81. Before High Court in Bijelo Polje, in requested period, one criminal case was conducted for the criminal offense of causing national, racial and religious hatred under Article 370, paragraph 3, in conjunction with Article13 paragraph 2 of CCM, which lasted for one year one month and three days, with the remark that verdict in this case has once been abolished.

82. In period from 2014 to 09.05.2017, before High Court in Podgorica, 4 criminal proceedings were conducted for criminal offense of causing national, racial and religious hatred under Article 370 of CCM, against 4 persons, namely: K.br.76/14, against 1 person — the verdict of 24.10.2014, where 1 person was found guilty and sentenced to 3 months in prison, and the decision became final on 15 December 2014. Procedure lasted for 5 months and 13 days, counting until day of validity; K.br. 115/14, against 1 person — by judgment of 05.06.2015 where to one person was pronounced a security measure of obligatory psychiatric treatment and custody at health institution, and decision became final on 20.10.2015. This procedure lasted for 1 year and 7 days, counting until day of validity; K.br. 123/14 — against 1 person — by judgment of 25.12.2014, to one person was pronounced suspended sentence, which imposed him a prison sentence of six months and at the same time determined that it would not be executed if he does not commit a new criminal offense for a period of 2 years. The decision became final on 16.04.2015, and the procedure lasted for 5 months and 18 days, counting until day of validity; At this court in work there is a case under working number K.br. 95/16, by indictment of High State Prosecutor in Podgorica K.br. 121/15 of 05.10.2016, against 3 persons, and 1 person, was also charged for criminal offense from Article 370.

83. Before the Basic Court in Nikšić, in course is a litigation proceeding, initiated in accordance with Law on Prohibition of Discrimination (on grounds of racial discrimination), and it is conducted under working code P.br. 1890/15. This case was initiated on 30.09.2015 it is still ongoing, while during reporting period there were no cases of racial discrimination before other basic courts.

84. When it comes to proceedings before Misdemeanor Courts, before Podgorica Misdemeanor Court, from 2014 to 1 May 2017, 9 misdemeanor proceedings were conducted for racial discrimination cases. Out of that number, five cases became lawful in 2016, while four cases are still ongoing. One decision was acquittal, in one case was imposed a fine of 250,00 €, while in three cases proceedings were suspended. When discussing bases of discrimination, two cases concerned religious beliefs, while in remaining seven cases, proceedings were conducted to determine misdemeanor accountability by national basis.

85. In Misdemeanor Court in Budva, from 2014 to May 1, 2017, a total of two racial discrimination cases were initiated in accordance with Article 19 of Law on Public Peace and Order, of which one case was resolved and lasted for 7 months while other case is still ongoing. In Herceg Novi Department there were a total of 5 cases conducted in accordance with Article 19 of Law on Public Peace and Order, and all cases have been resolved. Before Bar Department, procedure was initiated for 3 cases that were solved.

86. A total of 6 cases were filed before Misdemeanor Court in Bijelo Polje in 2016 for insult on national basis, of which four cases have been resolved and two cases are still ongoing. In 2017, one case of insult was filed on a national basis (violation of Article 7 of the Law on Public Peace and Order) and that case is still ongoing.

87. Departments in Berane and Pljevlja, from 2014 to 1 May 2017, in work were two cases, and both are resolved.

88. With regard to cases of discrimination prosecuted by Protector of Human Rights and Freedoms of Montenegro,[15] in 2012, this Institution had 64 cases related to discrimination. From that number, 21 on basis of national affiliation and one on religion and beliefs. In 2013, Protector had 59 cases pertaining to discrimination, of which 13 were transferred from previous year and 46 were filed in 2013. From that number, 10 based on national affiliation and 2 on religion. During 2014, there were 54 complaints filed with Protector, out of which 44 were resolved and 10 were transferred to 2015. Of that number 8 based on national affiliation. In 2015, the Protector had a total of 83 cases in area of prohibition of discrimination. All the cases are over. From that number, 15 based on national affiliation, and 4 on religion and religious symbols. In 2016, Protector had 151 cases in area of prohibition of discrimination. 146 cases were terminated, and 5 cases were transferred to 2017. Out of this number, 9 cases based on national affiliation, 7 cases on affirmative action based on belonging to the RE community, 3 based on religious affiliation; 2 based on ethnicity, 1 based on national and religious affiliation, 1 on basis of religious symbols, 1 on basis of national / political affiliation and sex, 1 on basis of national and political affiliation.

Respect of special rights and freedoms in the function of the elimination of discrimination

Article 5 of the Convention

The right to equal treatment before the courts and any other judicial body

89. Constitution of Montenegro prohibits any direct or indirect discrimination on any ground, which also applies to prohibition of discrimination in access to courts. Constitution also guarantees right of everyone to equal protection of their rights and freedoms. All are equal before law, regardless of any particularity or personal property. Everyone has right to address international organizations in order to protect their rights and freedoms guaranteed by Constitution. Equal access for domestic and foreign legal and natural persons to courts also implies the equality of right to legal assistance guaranteed by Constitution.

90. Law on Courts[16] in Article 3 prescribes that everyone has right to address the court in order to exercise his/her rights. Everyone is equal before the court.

91. Law on Civil Procedure[17] also prescribes equality of parties and obliges court to give each party opportunity to make a statement on the claims and allegations of opposing party. A party in the process may be any natural and legal person. If proceedings are not conducted in language of party or other participants in proceedings they will be provided, at their request, with oral interpretation into their language or language that they understand of all submissions and written evidence as well as what is exposed at hearing.

[15] http://www.ombudsman.co.me/Izvjestaji_Zastitnika.html

[16] Official Gazette of Montenegro, No. 011/15 of 12.03.2015

[17] Official Gazette of the Republic of Montenegro, No. 022/04 of 02.04.2004, 028/05 of 05.05.2005, 076/06 of 12.12.2006, Official Gazette of Montenegro, No. 073/10 of 10.12.2010, 047/15 of 18.08.2015, 048/15 of 21.08.2015.

92. Code of Criminal Procedure states in Article 7 paragraph 2 that in court in whose territory a significant part of population consists of members of minority nations and other minority national communities in official use during the criminal proceedings is their language, in accordance with law.

93. Amendments to Law on Free Legal Aid in 2015 have made progress and enabled provision of free legal aid in proceedings before a public bailiff. Also as beneficiaries of right to free legal aid have been recognized victims of domestic violence (from Law on Protection from Domestic Violence) in the same way as victims of criminal offense of Domestic or Family Community Violence and Human Trafficking. Property criteria which are prescribed as a basis for exercising right to free legal aid have been changed and criteria by which a lawyer may deny legal assistance defined (in accordance with law governing the law practicing).

The right to security of person and protection by the State against violence and abuse whether by government officials or by any person, group or institution

94. Pursuant to Law on Internal Affairs, i.e. Article 122, as one of three forms of police oversight (in addition to parliamentary and internal), Council for Civilian Police Control has been established in Montenegro. Council has a total of five members elected by Parliament of Montenegro for a period of five years. These are domestic experts in field of rule of law, legal science, human rights and human health. In work of Council, which gives it special weight, non-governmental organizations are also directly involved, ant they are nominating two out of five members. Council is acting on complaints from citizens, police officers and on their own initiative based on investigation of reported non-professional police treatment. Council issues a final assessment and recommendation, and MIA is obliged to inform him/her about actions taken with respect to issued assessment and recommendation of Council.

95. Political rights, in particular the right to participate in elections, voting rights and candidacy — under the general and equal voting system, the right to participate in government as well as in the management of public affairs, at all levels, and access rights, under equal conditions, to public functions;

Election legislation

96. *Compliance with Law on Election of Councilors and MPs, Article 94*

"Candidate lists that have won no less than 3% of the total number of valid votes in an electoral districts hall take part in allocation of seats.

97. *Notwithstanding paragraph 1 of this Article*

1. *Lists of candidates for election of a specific minority nation or minority national community MP specified in the election application or the title of the list of candidates, if none of them meets the requirement referred to in paragraph 1 of this Article, and individually they gain no less than 0.7% of valid votes, shall acquire the right to take part in allocation of seats as a single — collective list of candidates with the total number of valid votes won, provided that adding up that ensures winning up to three seats shall be recognized for allocation of seats.*

2. *In case none of the candidate lists for election of MPs of Croatian national members meets the requirements referred to in paragraph 1 of this Article and item 1 of this paragraph, the most successful one, with no less than 0.35% of valid votes shall acquire the right to one MP seat.*

3. *The lists of candidates for the election of councilors representing a minority nation or a minority national community identified in the electoral application or the name of the electoral list shall acquire the right to participate in allocation of*

seats separately with the obtained number of valid votes, in case that none of the lists fulfils conditions from paragraph 1 of this Article[5]

98. *The right referred to in paragraph 2 item 1 of this Article shall be exercised by candidate lists representing a specific — the same minority nation or a specific — the same minority national community with the share up to 15% in the total population in the electoral district, according to the data from the latest census of population.*

99. *Right from paragraph 2 item 3 of this Article shall be used by list of candidates representing a minority nation, i.e. a minority national community with the share in the total population of Montenegro up to 15%, or with the share of 1.5%-15% in the total population of a municipality, Capital and Old Royal Capital, according to data from the last population census.*

100. *The participation of a candidate list of a specific minority nation or minority national community in the pre-election coalition with candidate lists of another minority nation or minority national community or candidate lists of political parties or civic groups not exercising the right referred to in paragraph 2 of this Article shall not deny the right referred to in paragraph 2 of this Article to other submitters of candidate lists of such minority nation or minority national community."*

101. In last parliamentary elections held on October 16, 2016, out of a total of 81 seats, Bosniak Party won 2 seats, Albanians determined (Forca, DUA and AA) 1, and Croatian Civic Initiative won 1 seat. Largest number of parties in Parliament of Montenegro is of civic orientation, and there are also a number of national political parties.

102. With election of the Montenegrin Government on 28 November 2016, out of 24 members of Government, 8 are members of minority nations (33.33%). With election of Montenegrin Government on 28 November 2016, out of 24 members of Government, 8 are members of minority peoples (33.33%). Deputy Prime Minister is by ethnicity Bosniak, Minister of Internal Affairs is by ethnicity Muslim, Minister of Education is by ethnicity Bosniak, Minister of Transport and Maritime Affairs is by ethnicity Bosniak, Minister of Health is by ethnicity Bosniak, Minister of Labor and Social Welfare is by ethnicity Bosniak, Minister for Human and Minority Rights is by ethnicity Albanian and the Minister without portfolio is by ethnicity Croatian.

103. MIHMR in cooperation with the Human Resources Management Authority of Government of Montenegro, developed a questionnaire for collection of data on ethnicity, with aim of obtaining statistical data on ethnic structure of persons employed in state administration and local self-government in Montenegro for purpose of implementing constitutional guarantee on appropriate representation of minorities in these organs.

104. Information on representation of minority nations and other minority national communities in state organs, organs of state administration, organs of local governments, courts and State Prosecution was done in 2015. According to this information, 141 organs provided information on total number of employees, i.e. 11,571 completed questionnaires or 67.14% were submitted. Of total number of 13,900 questionnaires, in national terms, employees declared as Montenegrins 8,650 (74.76%), Serbs 1,301 (11.24%), Albanians 291 (2.51%), Bosniaks 650 (5.62 %), Muslims 285 (2.46%), Roma 2 (0.02%), Croats 88 (0.76%), others 49 (0.42%).

105. One of regular activities that MIHMR is conducting in co-operation with relevant institutions and civil sectors is education of civil servants, representatives of national councils of minority nations, and NGOs on "Empowering Minority Nations and Other Minority National Communities for Engagement in Politics". These educational activities are extremely important given that data show that members of minority nations, primarily RE, are faced with multiple discrimination, which is the consequence of gender belonging and belonging to a minority nation or a minority national community.

[5] This right is used by the electoral lists of members of a particular minority nation or a particular minority national community with a participation of up to 15% of the total population at the state level and with a participation of 1.5% to 15% of the total population in the territory of a municipality, the Capital City or the Old Royal Capital, according to the latest census data.

The right to free movement and the choice of residence in a state

106. New *Law on Foreigners*,[19] which began to be implemented on 1 April 2015, regulates conditions for entry, exit, movement, residence and employment of foreigners in Montenegro. This Law shall not apply: on a foreigner who, under international law, enjoys privileges and immunities, unless otherwise provided for by this Law; on stateless persons, because they are subject to provisions of confirmed and published international treaties and generally accepted rules of international law, if it is more favorable for them.

107. By Article 9 of Law on Foreigners a foreign person shall not be permitted to enter Montenegro, if: he/she uses another person's, invalid, i.e. false passport or other document; fails to satisfy the requirements from Article 11 of this Law; this is required by reasons of national security, public order and public health; is in transit across the territory of Montenegro and fails to satisfy requirements for entry into a third country; a pronounced protective measure of expulsion is in force, or a security measure of deportation of a foreign citizen from state, protective measure of deportation of a foreign citizen from territory of Montenegro or his/her stay is cancelled; he/she has insufficient financial resources to support himself/herself during his/her stay in Montenegro and to return to his/her country of origin or to travel to a third country.

"The police maintain the records of denial of entry of a foreigner into Montenegro police keep records"

108. A foreigner may enter, move across and stay in Montenegro with a valid travel document, with a visa entered into, or a valid travel document accompanied with a temporary residence permit, temporary residence and work permit, or permanent residence permit, unless otherwise provided under this Law or an international treaty.

109. A foreigner whom Montenegro is obliged to accept on basis of international treaty, when thus required due to humanitarian reasons, reasons of public order or public health, shall be granted an entry to Montenegro without a valid foreign travel document.

110. Nationals of certain countries may also enter Montenegro with a valid identity card issued by competent authority of another country, or other document under which their identity and nationality can be determined, in accordance with international treaty or regulation on visa regime under Article 16, paragraph 2 of this law.

111. Residence of a foreigner in Montenegro pursuant to provisions of this law shall include a:

- Stay of up to 90 days;
- Temporary residence;
- Permanent residence.

112. When it comes to permanent resolution of legal status of displaced persons from former Yugoslav republics and internally displaced persons from Kosovo residing in Montenegro, it is possible to recognize the right of permanent residence or temporary residence through adoption of Law on Amendments to the Law on Foreigners, effective from November 7, 2009. As a reminder, the deadline for submitting a request for regulation of status, prescribed by this law, was two years, i.e. until November 7, 2011. Subsequently, deadline for submitting a request for regulating status of these persons is prolonged, so by adoption of Law on Amendments to the Law on Foreigners, the deadline in which displaced persons from Kosovo can apply for approval of permanent residence and temporary stay of up to three years, was extended until 31.12.2014.

113. Amount of administrative tax paid in process of obtaining permanent residence in Montenegro was the following:

- Approval of permanent stay — 10 euros
- Approval of a temporary stay — 10 euros

[19] Službeni list Crne Gore, br. 056/14 od 24.12.2014, 028/15 od 03.06.2015, 016/16 od 08.03.2016.

- Issuing an ID Card for a Foreigner — 10 Euros
- Issuance of a personal work permit — 10 euros

114. A displaced/internally displaced person so to exercise right to permanent residency is obliged to provide from state of origin the passport, birth certificate and citizenship certificate to responsible authority in Montenegro (It is important to point out that these persons in proceedings for solving application resolution are not requested to provide proof for financial means for support, accommodation and health insurance).

115. By acquiring status of a permanently resident foreigner, a displaced and internally displaced person has, inter alia, right to a personal ID card as a personal identification document proving identity of the person, that is to say that person has the status of a foreigner residing in Montenegro, and citizenship of country of origin.

116. Displaced and internally displaced persons, by obtaining status of foreigners with permanent residence, allow integration into Montenegrin society and realization of the right to work and employment, education, vocational training, recognition of diplomas and certificates, social welfare, health and pension insurance, tax relief, access to market of labor and services, freedom of association, liasoning and membership in organizations representing interests of workers or employers.

117. New Law on Foreigners does not deal with the issues of displaced and internally displaced persons, except that this Law stipulates that proceedings commenced before new Law on Foreigners (1 January 2015) entered into force will be terminated in accordance with previous Law on Foreigners.[20] All persons who has not exercised right to submit a request for regulation of permanent residency and temporary stay of up to three years, from 1.1.2015, are illegally staying in Montenegro.

118. According to MIA data in the period of 7.11.2009, ending on 1.05.2017, displaced persons and internally displaced persons submitted a total of 14,342 applications for approval of permanent residency and temporary residency of up to three years. Of this number, 13,833 requests have been resolved, while 509 requests are ongoing.

119. Ministry of Labor and Social Welfare and UNHCR-Montenegrin Representation Office, signed on March 6, 2014 Memorandum of Cooperation and set out a set of measures to be taken to assist displaced and internally displaced persons living in Montenegro to submit a request to resolve their status. Memorandum also formed an Operations Team, which was constantly monitoring situation and taking appropriate measures.

120. From the middle of 2014 to 01 March 2017, a total of 12 work visits, each in duration of 5 working days, to Konik Camp and all other camps, accommodation and private houses in south and north of Montenegro were realized. During each of these visits, specific types of help and support were provided. These activities of combined mobile biometrics teams of MIA, Ministry of Internal Affairs — Kosovo Civil Registration Agency, UNHCR and NGO "Legal Center", in order to provide legal and practical assistance to internally displaced persons from Kosovo who since the late 1990s are staying in Montenegro, will continue in forthcoming period, i.e. in 2017.

121. It is important to emphasize that UNHCR has continuously provided and provides support to those who want to regulate their status in Montenegro through obtaining documentation, raising public awareness, public campaigns, as well as other ways.

122. Law on Foreigners deals with issue of "stateless persons" in Article 2 which prescribes that a stateless person is a foreigner whom no nation considers him/her its citizen in accordance with its legislation.

123. Chapter VIII of Law on Foreigners stipulates that to foreign nationals in Montenegro shall be issued following documents:

- Travel document for a stateless person.

[20] Official Gazette of Montenegro, No. 82/08, 72/09, 32/11, 53/11, 27/13 i 61/13.

- Travel document for foreigner,
- A special identity card for foreigner.

124. In this regard, Article 118 of Law stipulates that a travel document for a stateless person is issued by MIA, with a validity of up to one year.

125. Likewise, according to this Law, MIA issued Ordinance on the layout and content of the form of a special identification document, form of a travel document for foreigner, a form and a detailed manner of issuing a travel document for a stateless person,[21] which prescribes a detailed manner of issuing, layout of the form of request for issuing and a form of travel document for a stateless person.

126. According to Article 5 of Law on Foreigners in procedure for issuing a travel document for stateless person, shall apply law regulating administrative procedure, unless otherwise provided for by this Law.

127. Within process of implementation of Plan for Implementation of Recommendations, adopted by Montenegro in the second cycle of the General Periodic Review (GPR), which included 121 recommendations, during an interactive debate at GPR Working Group meeting in Geneva on January 28, 2013, in relation to implementation of Recommendation 119.5 concerning ratification of Convention on the Reduction of Stateless Persons, MIA as the primary competency bearer and its partners in implementation OSCE and UNHCR were obliged to take concrete steps at national level in order to prevent and eliminating causes that lead to statelessness.

128. From 22 September to 22 November 2014, Government of Montenegro issued a Public Invitation to persons residing in Montenegro who do not have access to citizenship of any state or cannot prove to have it, to visit nearest unit of MIA, for purposes of providing data. The public call was answered and questionnaires were filled out by 486 persons. Based on data collected, it was found that 7 persons have evidence that they are citizens of another state, that 240 persons have regulated status as internally displaced persons from Kosovo, while 221 persons have no registered residence in Montenegro, that 7 persons have been granted temporary residence in Montenegro, that at the time of the public call 5 persons had status of displaced person from area of former SFRY, and that 13 persons had registered residency in Montenegro. For only 7 persons, according to submitted data and evidence collected it was established that are persons without citizenship and that these persons submitted requests for obtaining a travel document for stateless persons, of which one person acquired Montenegrin citizenship, for 3 persons were issued travel documents for stateless persons with a validity of one year.

129. With regard to permanent resolution of status of children whose parents were certified status of a displaced person and who were not registered in database of displaced persons, Montenegro has overcome this problem through Amendments to Law on Extra judicial Procedure.[22] Thus, in Chapter III of Law — Establishment of Time and Place of Birth, Article 70a prescribes:

130. "*In the procedure of determining the time and place of birth, the court determines the time and place of birth of persons not* registered *in the birth registry as well as of a child born outside the health institution, and the time and place of his/her birth cannot be determined in accordance with the law governing the civil registers*". In this way, legal status of a large number of displaced persons — RE children from Konik, was solved."

131. By adopting this law, prepared in cooperation with UNHCR and UNICEF, procedure has been simplified and a procedure for determining time and place of birth was stipulated in order to regulate status of persons who are not registered in registry and persons born out of health institutions. It is determined that this proceeding is initiated by a motion of a person who is not registered in register of births or proposed by any person who has an immediate legal interest, that is, the guardianship authority. In order to facilitate

[21] Official Gazette of Montenegro, No. 22/2015.

[22] The Law on Amendments to the Law on Civil Procedure was adopted at the session of the Montenegrin Parliament on March 18, 2015 and is applicable from 2 May 2015, Official Gazette of Montenegro, No. 20/15.

realization of law, it is envisaged that any court having subject-matter jurisdiction has local jurisdiction. It also stipulates that first-instance court submits final decision on time and place of birth to organ responsible for keeping the registry within period of eight days as of the date of entry into force, for purpose of entering fact of birth in birth register and as well stipulates that proposer is exempt from payment of tax and other costs of procedure.

132. In relation to abovementioned, measures are continuously implemented with aim of raising awareness about need for birth registration and to increase number of children who are subsequently registered in birth registers (in cases where this is not done immediately after birth and so to decrease number of such cases). In 2014, with support of UNHCR, were printed 7,000 copies of brochure "Registration of the newborn in 4 steps" in Montenegrin language, 2,000 in Albanian and 1,000 in Romani language and distributed in 2015 to maternity hospitals in Montenegro. The brochure has been produced in form of a guide for parents, according to efforts to present procedures to citizens and make relevant information easily available.

133. The above data review is given in relation to **Recommendation of the Committee No. 12 from the Final Considerations on Combined Second and Third Report of Montenegro.**

Right to nationality

134. Montenegrin Constitution guarantees equal rights and obligations to all citizens, regardless of any particularity or personal characteristic and forbids any direct or indirect discrimination on any ground. Among other things, Article 79, paragraph 1, item 1 of Constitution of Montenegro prescribes that members of minority nations and other minority national communities are guaranteed rights and freedoms that can be used individually and in community with others, "to express, preserve, develop and publicly display national, ethnic, cultural and religious specificities". In accordance with Article 4 of Law on Minority Rights and Freedoms "*Persons belonging to minority nations and other minority national communities are equal to other citizens and enjoy equal legal protection. Any violation of the rights of minority nations and other minority national communities is unlawful and punishable*".

The right to marriage and choice of spouse

135. In accordance with Article 3 of Family Law, "*marriage is based on the free decision of men and women to marry, on their equality, mutual respect and mutual assistance*". In chapter of same Law, which is dedicated to conditions which determine validity of marriage, it is said: "*Marriage shall be concluded with the consent of the wills of a woman and a man given to a competent authority in the manner provided by this law*" (Article 16), and in Article 18 is stipulated that "*Marriage cannot be concluded by a person whose will is not free*".

The right of any person to property, as an individual or in the community

136. Constitution of Montenegro, Chapter 4 defines economic, social and cultural rights and freedoms. In Article 58 of Constitution, it is stipulated that "*is guaranteed the right to property, that no one can be deprived of his or her property rights, except when it is required by public interest, with just satisfaction*".

Property right is regulated by Law on Ownership and Legal Relations.[23]

Right to inheritance

137. Right to inheritance is enforced in accordance with *Law on Inheritance.*[24] In accordance with Article 4 of this law, the extramarital relatives are equal in respect of inheritance with marital relatives and relatives from full adoption with blood relatives. In case of full adoption, mutual inheritance rights of adoptee and his descendants to his

[23] Official Gazette of Montenegro, No. 19/09.
[24] Official Gazette of Montenegro, No. 74 of 5 December 2008.

relatives by blood cease to exist. Also, in accordance with Article 5 of this Law, foreigners in Montenegrin have same inheritance rights as Montenegrin citizens under condition of reciprocity, unless otherwise stipulated in an international agreement.

138. Reciprocity is presumed, until contrary is established at the request of a person who has a legal interest. Inheritance can be based on law (legitimate successors) and on basis of testament (Article 6).

Right to freedom of thought, conscience and religion

139. By Constitution of Montenegro everyone is entitled to freedom of thought, conscience and religion, as well as right to change religion or belief (Article 46). Also, everyone is guaranteed freedom to either publicly or privately manifest religion or belief in prayer, preaching, customs, or ritual. Nobody is obliged to speak about own religious and other beliefs. Montenegro is defined as a secular state in which religious communities are separated from state. To religious communities operating in territory of Montenegro, Constitution guarantees equality and freedom in performing rituals and religious affairs (Article 14). State docs not interfere with internal organization and organization of religious affairs, but has left these tasks under authority and responsibility of religious communities themselves, i.e. religious community independently regulates their organization and affairs. There is no state religion in Montenegro.

140. Realization of religious rights is specifically regulated by *Law on the Legal Status of Religious Communities*[25] and *Law on the Celebration of* Religious *Holidays*[26] as reported in the previous Combined Report of Montenegro

Right to freedom of opinion and expression

141. Realization of rights from the area of information is guaranteed by Constitution of Montenegro. Everyone has right to freedom of expression by speech, written word, image or otherwise. Right to freedom of expression can only be limited by right of other to dignity, reputation and honor and if public morals or security of Montenegro are threatened (Article 47). Constitution guarantees freedom of press and other types of providing information, as well as right to establish newspapers and other means of public information, without authorization, upon registration with competent body. Constitution guarantees right to reply and right to a correction to mislead, incomplete or incorrectly transferred information that violates one's right or interest and right to compensation for damage caused by publication of incorrect information or notice (Article 49). There is no censorship in Montenegro. Constitution provides that competent court may prevent dissemination of information and ideas through public media only if it is necessary to prevent inciting to violent overthrow of constitutional order, then to preserve territorial integrity of Montenegro, to prevent propagation of war or incitement to violence or perpetration of criminal offense, as well as to prevent propagation of racial, national or religious hatred or discrimination (Article 50). Under Constitution, everyone has right to access information held by state bodies and organizations exercising public authority that may be restricted if it is in interest of: protection of life, public health, morals and privacy, conduct of criminal proceedings, security and defense of Montenegro, and economic policy (Article 51).

142. Constitutionally guaranteed rights to freedom of expression in Montenegro are more closely regulated by media regulation, in line with international standards in field of media. Regarding previous report concerning freedom of expression and public information, there were no changes even though the laws changed (Amendments to the Law on Radio Diffusion Services 2016, Amendments to the Law on Electronic Media).

143. In 2017, Montenegro adopted *Law on Amendments to the Law on Free Access to Information*.[27] This Law regulates manner and procedure for exercising rights of citizens to

[25] Official Gazette of the Socialist Republic of Montenegro, No. 009/77 od 05.04.1977, 026/77 of 20.07.1977, 029/89 of 25.10.1989, 039/89 of 29.12.1989, Official Gazette of the Republic of Montenegro, No. 027/94 od 29.07.1994, 036/03 of 13.06.2003.

[26] Official Gazette of the Republic of Montenegro, No. 056/93 of 29.12.1993, 027/94 of 29.07.1994, Official Gazette of Montenegro, No. 073/10 of 10.12.2010.

seek, receive and use information held by authorities. Access to information held by authorities is free, and right to access information belongs to domestic and foreign physical and legal persons without obligation to state reasons and explain interest of seeking information. This law guarantees right to access to information at level of principles and standards contained in international documents on human rights and freedoms. Law is based on principles of freedom of information, equal conditions for exercise of rights, openness and publicity of work of public authorities and urgency of proceedings.

144. Article 6 of Law stipulates that authorities are obliged to provide access to information on equal terms and under equal conditions to all natural and legal persons, unless otherwise provided by this law.

145. Article 7 of Law stipulates that access to information is in the public interest.

Right to freedom of peaceful assembly and association

146. Freedom of assembly and association of citizens in Montenegro is guaranteed by Constitution and fall into the corps of political rights and freedoms. Montenegrin Constitution guarantees freedom of political, trade union and other association and action, without authorization, upon registration with competent body.

147. Article 52 of Montenegrin Constitution granted freedom of peaceful assembly without authorization, with prior notification to competent body. Constitutionally guaranteed freedom of peaceful assembly is enshrined in *Law on Public Gatherings*[28] which, in accordance with the OSCE Copenhagen Human Dimension Criteria, including 2001 Warsaw Recommendations, affirms right to freedom of assembly.

148. A public gathering application is submitted by organizer of the public gathering, 5 days before time for which the gathering is convened, to Regional Unit of the PD according to place where the public gathering is going to be organized. Organizer of meeting may be a legal or a natural person. If a public gathering is organized by a group of citizens or several legal persons, their obligation as organizers is to appoint a joint representative.

149. CCM in Article 181 provided for criminal legal protection of prevention and interference of peaceful assembly. Anyone who with power, threat, deceit or otherwise prevent or disrupt a public meeting organized in accordance with law, shall be punished by fine or imprisonment up to one year (paragraph 1). Qualified form of this criminal offense (paragraph 2) exists when the offense is committed by an official in performing the service. An official, who, by force, threat or otherwise prevent or impede lawfully reported meeting, shall be punished by imprisonment for a term not exceeding three years. Normative assumptions for realization of these freedoms were achieved through adoption of *Law on Political Parties*,[29] *Law on Non-Governmental Organizations*,[30] *Labor Law*,[31] and adoption of accompanying by-laws for their elaboration.

150. Form of association of citizens within political parties (i.e. conditions and manner of: establishment, organization, registration, association and termination of political parties' work) is regulated by Law on Political Parties. Pursuant to provisions of this Law, a political party is an organization of freely and voluntarily affiliated citizens for purpose of achieving political goals by democratic and peaceful means. Political parties have status of legal persons, act in public and in territorial principle. Party may be established by at least 200 citizens with Montenegro's right to vote, who sign party's declaration on their own. Political party register is a public book and is run by ministry responsible for administration's affairs. Registration of a political party is carried out based on application

[27] Official Gazette of Montenegro, No. 044/12 of 09.08.2012, 030/17 of 09.05.2017.

[28] Official Gazette of Montenegro, No. 052/16 of 09.08.2016.

[29] Official Gazette of the Republic of Montenegro, No. 021/04 of 31.03.2004, Official Gazette of Montenegro, No. 073/10 of 10.12.2010, 040/11 of 08.08.2011, 059/11 of 14.12.2011.

[30] Official Gazette of Montenegro, No. 039/11 of 04.08.2011.

[31] Official Gazette of Montenegro, No. 049/08 of 15.08.2008, 026/09 of 10.04.2009, 088/09 of 31.12.2009, 026/10 of 07.05.2010, 059/11 of 14.12.2011, 066/12 of 31.12.2012, 031/14 of 24.07.2014, 053/14 of 19.12.2014.

system, to which is necessary to enclose: decision on establishment of party, party's statute and party's program.

151. When it comes to non-governmental organizations, Law on Non-Governmental Organizations affirms liberal concept of establishment and registration of non-governmental organizations and non-governmental foundations, in such a way that association can be established by at least 3 persons, one of which must have a permanent residence, temporary residence or headquarters in Montenegro, and foundation at least one person regardless of his/her permanent residence, temporary residence or headquarters. Entry into the register is done with ministry responsible for the administration, based on application for registration. Along with application for registration of association, founding act, minutes of founding assembly and statute shall be submitted. Along with application for registration of foundation, founding act, or testament if it is founded by testament, minutes from founding session of administrative board and statute.

152. A foreign non-governmental organization may operate on territory of Montenegro to achieve aims and interests that are not prohibited by the Constitution and law and if it is registered its branch at competent ministry. Foreign Organization, within meaning of this Law, is a non-governmental organization with the status of a legal person established in other country and established under the laws of that State in order to achieve common or general objectives and interests.

153. It should be added here that in 2007, Office for Cooperation with Non-Governmental Organizations was established as organizational unit of General Secretariat of the Government of Montenegro. Task of Office is to improve and coordinate work of state bodies with NGOs on principles of partnership, transparency, accountability, mutual information and independence of NGOs.

154. Task of Office is to initiate and organize civil service education on matters of importance for co-operation with NGOs and civic participation, and to cooperate with NGOs, their coalitions and networks, international organizations and institutions on matters falling within Office's competence. Office also carries out professional and administrative tasks for purposes of Council for the Development of Non-Governmental Organizations.

155. It represents institutional support for creating a favorable environment for work and development of non-governmental organizations through intensification of cross-sectorial co-operation in preparation and implementation of public policies and through realization of partnership activities and projects, with intent to contribute to improvement of cooperation between Government of Montenegro and government bodies and non-governmental organizations.

Right to work

156. The information below is given for purposes of reviewing the implementation of **Recommendation of the Committee No. 15 from the final considerations of the Second and Third Combined Report on Montenegro.**

157. Employment policy is part of a public policy that should help remove barriers to economic growth by creating conditions for greater employment and social inclusion of all its citizens.

158. Strategic framework for employment policy is defined by National Strategy for Employment and Human Resources Development for the period 2016-2020. Overall goal of Strategy is "Creating Optimal Conditions for Growth in Employment and Improving Human Resources".

Legislative framework for employment policy

159. Employment Agency of Montenegro (ZZZCG) performs its function on labor market within framework defined by *Law on Employment and* Rights *from Unemployment Insurance*, [32] labor regulations, health care, pension and disability insurance, social

[32] Official list of Montenegro, No. 14/10, 40/11, 45/12, 61/13 and 20/15.

protection and other strategic documents of Montenegrin Government in field of economic policy and labor market orientation.

160. Law on Employment and Rights from Unemployment Insurance defined basic principles of employment policy:

- Freedom in choice of profession and workplace;
- Prohibitions of discrimination;
- Gender Equality;
- Affirmative action aimed at less employable persons;
- Free of charge employment affairs.

161. An unemployed person has right to:

- Free use of services of the Bureau and Employment Agency;
- Be informed about employment opportunities and conditions;
- Participate in active employment policy programs;
- Realize financial assistance during education, training, and professional rehabilitation.

Less employable persons have priority in implementation of certain measures of Active Employment Policy (AEP).

162. In order to increase employment of all unemployed persons, including less employable persons, ZZZCG is implementing a range of AEP that are aligned with European employment strategy guidelines:

- Information on employment opportunities and conditions;
- Employment mediation;
- Professional orientation;
- Self-employment training;
- Self-employment support;
- Employment subsidies;
- Adult education and training;
- Professional rehabilitation of less employable persons;
- Public work;
- Employee training;

163. Implementation of AEP aims at systematic reduction of unemployment, particularly long-term and less employable persons, belonging to RE.

164. Regulation on subsidies for employment of certain categories of unemployed persons — as a wider measure of AEP.

165. Regulation provides for appropriate subsidies for employers who hire certain categories of unemployed persons who are on the register of unemployed persons:

- A person older than 50 who lives as a single person with one or more persons in guardianship;
- A person who has not been employed for previous six months;
- A person who has not completed secondary education or vocational qualification or who has completed regular education, and for not more than two years thereafter that did not have work;
- A person belonging to RE population;
- A person who participates in public works programs.

166. An employer who employs a person to which the regulation applies does not pay:

- Contribution to Compulsory Social Security on Income (Contribution to Pension and Disability Insurance, Contribution to Health Insurance and Contribution to Unemployment Insurance) and Contribution to the Labor Fund and Personal Income Tax.

167. Regulation applies from 1.1.2016 to 31.12.2017.

Records of unemployed RE

168. *ZZZCG* records of unemployed persons is not kept by ethnicity, but declaration of an unemployed on ethnicity is exclusively voluntary. So on 31.12.2016 in the *ZZZCG* records there were 1.731 persons who declared to be members of RE, of which 766 were women (44.25%). In the total registered unemployment, this population participated, on the same day, with 3.53%.

Administrative Data on Unemployment (Period 2012-15.05.2017)

Year	*No. of registered unemployed persons*	*No. of unemployed RE*	*Women*	*Percentage of women (%)*	*Participation in total unemployment*
2012	31 232	1 012	427	42.19	3.24
2013	34 514	1 118	471	42.12	3.23
2014	34 687	1 326	567	42.76	3.82
2015	39 991	1 542	670	43.45	3.85
2016	49 487	1 731	766	44.25	3.49
15.05.2017	52 247	1 841	810	43.99	3.52

169. Analysis of comparative statistics on RE entered in unemployment register in previous period shows that they did not change significantly in last five years.

170. General characteristics are:

- Number of unemployed RE is about 1,500, on average
- Women's share is about 43%
- participation in total registered unemployment is about 3.5%
- 94% are persons without occupation and professional qualifications

171. Qualification structure of unemployed members of RE populations on 31.12.2016:

- Persons without occupation and professional background 95.23% (women 44.29%),
- Persons with completed third level of professional qualification 2.59% (women 28.88%),
- Persons with completed IV degree of professional qualification 1.27% (women 59.09%),
- Persons with completed second level of professional qualification with 0.86% (60% of women)
- One man with completed VI degree of vocational qualification (0.05%).

Inclusion of RE in AEP measures

172. *ZZZCG*, in an effort to qualitatively improve position of this population and provide equal opportunities in labor market, informs unemployed RE about rights and obligations they have while in records, motivating them to become involved in AEP programs and mediates in employment, by principles of affirmative action.

173. In its annual work programs, *ZZZCG* plans activities and resources aimed at improving employability and employment of RE, while respecting provisions of National Strategy for Employment and Human Resources and Strategy for the Social Inclusion of RE in Montenegro and accompanying Action Plans.

174. Adult education and training program implies acquiring professional qualifications and key skills needed for the labor market.

175. It is realized through informal education with adult education organizers, through publicly valid education programs.

176. Members of the RE population are mainly involved in training programs for acquiring professional qualifications for lower level occupations (auxiliary occupations).

177. Number of RE involved in education and training programs: 2012 — 0 persons (5 women); 2013 — 2 women and 1 man involved in vocational training program; 2014 — 20 persons (13 women); 2015 — 11 persons (8 women); 2016 — 4 women.

178. Seasonal employment is a great opportunity for a large number of RE to enter working relationship, even if for a short time.

179. Number of RE covered by seasonal employment: 2012 — 53 persons (20 women); 2013. — 17 persons (5 women); 2014 — 31 persons (12 women); 2015 — 22 persons (7 women); 2016. — 62 persons (27 women).

180. Public works — socially useful programs in field of child and youth care, elderly people who are in a state of social need, environmental protection, educational, cultural and other public interest programs, which encourage creation of new jobs and increase of working potentials, level of knowledge and skills of unemployed persons, while at same time is helping development of local self-government.

181. Number of RE employed through public works programs: 2012 — 27 persons (1 woman); 2013 — 19 persons; 2014 — 26 persons (4 women); 2015 — 29 persons (5th grade); 2016 — 18 persons (4 women).

182. Within framework of implementation of **Operational Program "Human Resources Development 2012-2013"**, financed by Instrument for Pre-Accession Assistance (IPA), measure 3.1 "Supporting a Greater Approach to the Labor Market for Persons with Disabilities and RE Population" and Service Contract: "Cooperation between *ZZZCG* and CSR", designed with intention of increasing employment rate of RE and improving access to labor market, through implementation of numerous activities, from enhancing capacity of institutions to improving capacity of applicants for project grant applications. Realization of project started in December 2015 and lasts 18 months.

Project "Step closer to labor market"

183. *ZZZCG* is holder of project "Step closer to the labor market", whose implementation began in February 2017, with duration of 12 months. Main objective of project is to strengthen social inclusion and employability of RE by setting conditions for acquiring the first occupational qualification.

The right to housing

184. Information below is given in light of **Recommendation of the Committee No. 13 from the final consideration on the Second and Third Combined** Report **of Montenegro.**

185. Through adoption of strategic documents in area of housing and *Law on Social Housing*,[11] Montenegro is systematically addressing this important issue with aim of achieving social integration of groups of persons and individuals who cannot solve housing issue on the market. Right to housing is observed in context of other social rights as a precondition for social cohesion in society.

[11] Official Gazette of Montenegro, No. 35/13, July 2013.

186. Government of Montenegro, in September 2011, adopted National Housing Strategy 2011-2020, with Action Plan for the period 2011-2015. After end of implementation period of this Action Plan, in December 2014, Government adopted Action Plan for National Housing Strategy for period 2015-2020. Priority areas for defining measures and actions are: creating preconditions for improving the housing market; improvement and maintenance of existing housing fund; regulating issues of informal settlements; improving living conditions of special social groups; improving infrastructure and reducing energy consumption in housing; formulating a strategic framework for transparent allocation of public resources, as well as for mobilizing other resources, etc.

187. Priority Strategic goals of National Housing Strategy and Action Plans are: increasing availability of housing space to households that cannot solve their housing needs on the market; supporting the development of rental sector, both public and private, with creation of conditions for full legal certainty in this sector; and improving management and maintenance system of existing housing fund.

188. Article 4 of Law on Social Housing sets out priority target groups, so that priority is given to RE, displaced persons, internally displaced persons from Kosovo who reside in Montenegro, foreigners with permanent or temporary residence which had been granted the status of a displaced person or internally displaced persons. Pursuant to this Law, in 2014 is adopted Social Housing Program 2014-2016, and in preparation is proposal for Social Housing Program for the period 2017-2020, while local self-government units are required by Law to develop local social housing programs as one-year realization programs.

189. According to Ministry of Sustainable Development and Tourism's data, in cooperation with competent authorities, a significant number of members of vulnerable groups live in informal facilities. Issue of informal settlements and informal construction in general, is addressed by *Law on the Regularization of Informal Objects*.[34] Namely, although this law came into force on August 31, 2016, it has not yet begun to apply (the beginning of application was postponed to 31 July 2017), but it is intended to by Law on Planning and Construction (law is in the process of being drafted), as a systematic in this area, resolve status, define and simplify process of legalization of illegal facilities.

190. Proposal law stipulates procedure, i.e. conditions and way of legalization of informal structures, defined as informal structures that enter into process of legalization, solving property — rights relations, competence, categorization, and manner of repayment obligations of illegal builders, penal provisions and other issues of relevance to legalization. Law on the Regularization of Informal Objects introduced notion of informal object for basic housing. Said institute has been formulated for purpose of prescribing obligation to provide alternative accommodation to owners of informal object and members of their family households, which do not own other housing objects in territory of Montenegro and fulfill obligations assumed by Vienna Declaration. Mandatory provision of alternative accommodation in case of removal of object for basic housing.

191. Sarajevo Declaration process, which began in 2005, aims to find durable solutions for refugees and displaced persons from the 1991-1995 conflict on territory of former Yugoslavia. Donor conference was held in Sarajevo on April 24, 2012, under auspices of partner countries. Significant resources were collected. Partner countries have identified a number of housing solutions that best meet the needs of target user population. Such solutions reflect main three displace situations dealt with by Regional Housing Program (RHP): return, local integration and special solutions for elderly and highly vulnerable displaced individuals. RHP in Montenegro has contributed to closure of Konik Camp II, and Camp I will be closed in coming months (which will mean closure of largest collective camp for displaced persons in Montenegro) as well as other collective centers for displaced and internally displaced persons (in course is construction of housing units in Berane which will result in closure of second largest collective camp in Montenegro).

192. Within the RHP "Pilot Project — Nikšić" (MNE 1), is envisaged construction of 62 housing units, of EUR 2,780,000.00 grant funds EUR 1,980,000.00, contribution of state or local unit EUR 800,000.00. Through this project 13 Roma families permanently solved

[34] Official Gazette of Montenegro, No. 056/16 of 23.08.2016, 013/17 of 28.02.2017.

housing issue. Project is completed within planned deadline without additional works and any delays.

193. In July 2013, two more subprojects, "Construction of 120 Housing Units at Konik Camp" (MNE 2), were nominated, worth EUR 6,906,750.00, of which grant amounted to EUR 6,226,622.00. Construction of 12 buildings with 10 residential units is ongoing. Selection of future users is required. Project is fully realized with planned dynamics.

194. On the sub-project "Construction of 120 Housing Units at Konik Camp" — MNE 2, due to good design practice, there was a saving of EUR 1,950,977.11 — so Donors Assembly approved extension of construction project at Koniku-MNE 5 "Building 51 Housing Units in Konik" — continuation of IPA Project. Implementation of public procurement procedure for best contractor for execution of works and supervision of performed works is in progress. It is expected that in March 2017 works on the objects will begin.

195. Sub-project MNE 4: "Construction of 94 Residential Units in the Municipality of Berane" aims to provide durable and sustainable housing solutions for refugees and internally displaced persons. Project value amounts to EUR 3,990,649, of which donations amount to EUR 3,575,779 and with this project will be closed two collective centers, Rudeš 1 and Rudeš 2. Agreement with "Eurozox" Consortium on performance of works and Consortium "Ing Invest" on supervision of construction works on 94 residential units in Berane was signed on 20 December 2016. Also, Grant Agreement with Council of Europe Development Bank was signed. Main construction project with audit was completed and a building permit was issued by Municipality of Berane. Planned deadline for construction of 94 housing units is 18 months.

196. When it comes to training of future tenants, Ministry of Labor and Social Welfare has provided continuous work with this population through sustainability projects. Training was carried out in September 2016, after families were moved in. Notifications of tenants are conducted by NGO "Legal Center" and the Central Register of Residents, and in course is the preparation of 14 brochures on various topics.

197. Drafting of Act on the maintenance of social apartments has begun and is within the competence of local self-government.

Development of local action plans (LAP) for social housing

198. **Municipality of Bijelo Polje** — The NGO "E-Roma" was included in development of LAP for Roma Integration 2012-2017. Development of a Social Housing Study is underway. Study is realized through project "Social Situation of Roma", funded by Municipality of Bijelo Polje from funds allocated by Commission for the allocation of funds to NGOs for 2015.

199. **Municipality of Bar** — A team was formed and appointed to work on Local Social Housing Plan. At the moment, the Commission is set up to carry out an analysis and recording of existing housing fund owned by Municipality of Bar. Team will endeavor to bring Local Plan by end of fourth quarter of 2017.

200. **Municipality of Cetinje** — Analysis of situation and needs of RE community (measures and activities related to improving living conditions of RE in LAP) is main activity of Secretariat for Sustainable Development and Infrastructure.

201. **Municipality of Danilovgrad** — Legalization of buildings in which RE live is completed, as is case with rest of population, namely RE in the Municipality of Danilovgrad have housing objects made of solid material.

202. **Municipality of Herceg Novi** — On 18 August 2015, Memorandum of Understanding was concluded between Municipality of Herceg Novi and NGO "Help — Hilfe zur selbsthilfe e. V." for construction of 6 prefabricated houses for vulnerable Roma families. Municipality was obliged to provide location and infrastructure equipment in accordance with Memorandum. Within project "Improvement of Roma Integration at the Local Level", implemented jointly by NGOs "CEDEM", NGO "Young Roma" and Municipality of Herceg Novi, and financially supported by Open Society Foundation from

Budapest, a Local Study on Housing of RE Population in Municipality of Herceg Novi was made. Local study includes valid and confidential data from field where existing housing problems are identified.

203. **Municipality of Niksic** — In territory of Municipality of Niksic, 24 residential units were provided. Local Social Housing Program for 2016 was delivered, and Social Housing Program for 2017 is in process of delivery. In forthcoming period, construction of more housing units is planned, but it is still much more necessary to work on improving conditions of their housing, which will be part of the future LAP.

204. **Capital City of Podgorica — Members of REpopulation in Capital City are exempt from paying** for water and communal services. Capital City of Podgorica has handed over land for construction of housing units that were built or are going to be built under the Regional Housing Program and the IPA Project. There are currently 5 buildings on this plot.

205. In order to improve the living conditions of RE population, Podgorica has invested significant resources:

- In order to remediate housing objects that were destroyed-damaged due to natural disasters at beginning of 2012, funds from Budget of the Capital City of Podgorica amounted to € 7,803.34 for purchase of building materials for 7 families.
- In order to solve housing situation of Roma citizens, 4 residential units were allocated in "DUP-Service Tank Area" UP 14. Size of housing units is about 47 m².
- In order to improve living conditions of RE, Capital City has handed over construction land of about 13.87 hectares in area of Detailed Urban Plan "Konik — Vrela Ribnicka II" in Podgorica, as well as the fee for communal equipment of construction land to boundaries of urban plot. Also, the Assembly of Capital City — Podgorica adopted General and Detailed Urban Plan "Konik — Vrela Ribnicka II" in Podgorica, which created preconditions for realization of IPA Project "Identification of durable solutions for internally displaced persons and Konik camp residents" — Phase I, whose implementation should have started at beginning of 2013, worth EUR 3,000,000.00. This project is designed to build 90 residential units in area of A zone in Koniku, build a multipurpose center as well as it provided funds for education and employment of this population. Ministry of Labor and Social Welfare is holder of project.
- Capital City — Podgorica, after fire that happened on 24 July 2012 in area of Konik Kamp I, took a number of activities to ensure continuation of normal life of inhabitants of camp. Services of Capital City has designated location to raise settlement of tents. Capital City cleared fired terrain with its utility service and tamponed base for raising tents. Also, City Council provided food in amount of EUR 21,948.79, public lighting at mentioned location as well as drinking and technical water. Total amount for services of Capital City is EUR 33,408.15. This cost does not include labor costs for individual Services. Also, they do not include price for JP Vodovod and sewerage service, as well as services of JP Čistoća, which were daily in field.

206. **Municipality of Kotor** — New LAP has not been delivered. An analysis was conducted — a report was made on situation and needs of RE population, and thus in area of housing in all localities in Municipality of Kotor with an emphasis on Lovanja settlement.

207. **Municipality of Tivat** — Housing problem is being solved for 4 RE families from settlement „7 July "in cooperation with NGO "Help — Hilfe zur selbsthilfe e. V." Social Housing Program 2015-2016 has been completed, while in 2017 it is being prepared. Families in informal settlements 7 July and Lovanja have been identified.

The right to health, medical assistance, social security and the use of social services

208. Article 5 of *Law on Health Care*[14] provides that in exercising right to health care, all citizens are equal, regardless of their nationality, race, sex, gender indent, sexual orientation, age, disability, language, religion, education, social background, property and other personal property in accordance with Law, in realization of health care at the primary, secondary and tertiary level.

209. By the reform of the health system, completed at primary level of health care, were created all conditions for registration of RE population, as well as refugees and displaced persons, and persons with the status of a foreigner with permanent residence, for exercising right to health care and access to health care facilities, in a manner and by procedure as with all other Montenegrin citizens.

210. For purpose of linking health system and the RE population, improving health care for the entire population, access to health care and information through the communication of the RE community and healthcare workers in providing health care, was signed a Memorandum of Understanding between Ministry of Health, Help Hilfe zur Selbsthilfe and Fund For Roma Education, and co-operation continued through project "Promoting health and improving access to health care system for members of internally disp-laced RE population through the work of Roma health mediators".

211. In period from 2014 to 2016, have been developed a standard for occupations, a standard of qualification and a test catalog for associates in social inclesion in healthcare. In July 2016, the PI "Secondary Medical School", Podgorica, held training for associates in social inclusion in health care. Two Roma associates in social inclusion in health care, who have been trained for this occupation during the past period under the supervision of a mentor, will be employed by Health Center in Podgorica from 2017 onwards. Implementation of program has continued with cooperation of Berane Health Center and Nikšic Health Center, where is ongoing selection and training of mediators in these areas, who will be engaged under a project. All these activities are continued in line with Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016-2020.

212. For needs of RE populations at Konik Camp were held 20 workshops on topics: Rights and obligations of patients, HIV/AIDS, scabies, hygiene waste materials, protection of reproductive health, substance abuse, collective accommodation-health risks, prevention of diabetes, domestic violence, breast cancer, promotion of health, oral health etc. Every topic has been processed twice.

213. MHMR in order to raise awareness of importance of prevention and preservation of health, continuously organizes a preventive gynecological and ultrasound examinations for women from RE population. Ultrasound examinations were made for thyroid gland, breasts, lung and mammography was made for women over 40. Next action will include abdominal ultrasound. In 2014, were included 50 RE women, 57 in 2015, and 70 in 2016.

Right to Education and Professional Training

214. Constitution and relevant laws in Montenegro provide compulsory and free primary education for six to fifteen years old children, regardless of gender, race, religion or other diversity.

215. In work with children from RE population focus is on their integration, improvement of school and social achievement. Preschool education programs and half-day care are regularly implemented.

216. Preparatory kindergartens for children from RE population are currently running independently before each school year. The first preparatory kindergarten of this kind was organized in school year 2013/14, and attended by 87 preschoolers who were eligible to enrol in primary school, and were not included in any of the systemic forms or programs of education, whereas before school year 2014/15 preparatory kindergartens were provided for

[14] Official Gazette of Montenegro, No. 003/16 of 15.01.2016, 039/16 of 29.06.2016, 002/17 of 10.01.2017.

119 children of RE population, and in June 2016, the preparatory kindergarten was organized for 111 RE children, which until now have not been covered by any form of formal education and have acquired legal right to enrol in the first grade in school year 2016/17.

217. Institute for Education held training for 23 educators and financially supported nine RE mediators.

218. In school year 2016/17, in preschool institutions enrolled 103 children from RE population, accounting for 0.55% of total number of enrolled children in preschool institutions in Montenegro.

219. In current school year 2016/2017, 1.617 pupils were enrolled in primary education, 111 in secondary and 20 university students of RE population.

220. MHMR, in cooperation with the Roma Educational Fund (REF) and the Institute for Education, provides scholarships for pupils (60.00 euros) and university students (150.00 euros) of RE populations. Also, MHMR and the Ministry of Education each year allocate funds for provision of free textbooks for students of RE populations from the 1st to the 9th grade of primary schools.

221. Regarding efforts on desegregation of schools, Regional Division of the Primary School "Božidar Vuković Podgoričanin" at Konik Camp was closed for pupils of RE population, and pupils were deployed in seven elementary schools in Podgorica. For pupils in Podgorica is provided transport. In addition, in Podgorica, Niksic, Herceg Novi and Berane there was a campaign on enrolment of RE children in the first grade of primary school. Campaign was conducted with support of Institute for Education, MHMR and the NGO sector dealing with RE population.

222. For all students who have completed primary school and who wanted to continue their education, Ministry of Education has provided for their enrolment in preferred courses in secondary schools. Ministry of Education, in cooperation with secondary schools, supported and secured free testing for obtaining fourth grade degree for 12 pupils from RE population. Also, all interested secondary school pupils from this populations were enrolled in faculties (20 students) for next school year 2017/18. It is also planned to fund 20 associates in social inclusion for school work, for needs and assistance of pupils of RE populations in Montenegro.

223. According to measure from Strategy for Social Inclusion of Roma and Egyptians 2016-2020, Ministry of Education has formed teams for monitoring children at risk of early school leaving. Apart from primarily competent institutions, members of team are also representatives of MHMR, Institute for Education, primary schools attended by RE children, Center for Social Work, representatives of RE non-governmental organizations.

224. MHMR has implemented a "pilot project" that, in addition to Roma primer whose printing was financed by Ministry and Roma Council in Montenegro, was realized in form of informal education for members of RE population, as well as for all persons interested in learning Romani language and culture. Project included four municipalities: Niksic, Podgorica, Herceg Novi and Berane, and total number of participants was 85.

225. Also, in July 2014, Ministry organized a summer camp for Roma language learning, attended by 21 secondary school pupils and one university student from RE population.

226. The first Montenegrin-Romani/Romani-Montenegrin dictionary was published on 2 September 2015 in edition of Institute for Textbooks and Teaching Aids Podgorica. Financial resources for the development of Dictionary have been provided in budget of MHMR. Dictionary is small one-volume descriptive and normative dictionary and contains about 12,000 words.

227. MHMR continuously organizes seven-day summer/winter holidays for best pupils from RE population attending VI, VIII and IX grade of primary schools from Montenegro. During stay children have opportunity to learn and renovate knowledge of Romani language and culture through workshops for informal language learning.

Begging, early and forced marriages, human trafficking

228. In order to combat and prevent beggary, child-contracted marriages and trafficking in human beings, in addition, MIA, in 2015, established the Roma and Egyptian Population Support Team, consisting of representatives of State Prosecution, Basic Court in Podgorica, Center for Social Work Podgorica, Red Cross, PD, as well as representatives of Center for Roma Initiatives and Women's RAE Network "Prva".

229. In order to prevent juvenile and/or forced marriages in RE population, program "*Combating trafficking in children, early and* contractual *marriages and forcible begging*" was accredited by Institute for Education. A total of 23 primary and secondary school teachers passed the training program.

230. Regarding problem of begging, the PD realized 78 actions "Prosjak" during period from 1 January to 31 December 2016, during which 226 persons were controlled, out of which 63 children were caught in begging. 35 requests for initiating misdemeanor proceedings were filed with Misdemeanor.

231. Of total number of children caught in begging (63):

- Against seven legal representatives of juvenile children, were filed seven requests for initiating misdemeanor proceedings with Misdemeanor Court;
- Against four parents were filed four requests for initiation of misdemeanor proceedings with Misdemeanor Court,
- 45 children were sent to Center for Social Work,
- In 6 cases, parents of underage children were warned,
- One case of begging of a minor was reported to Basic State Prosecution in Podgorica.

There were no criminal charges filed on this basis.

232. RE women are at a high percentage exposed to domestic violence. According to a research carried out by NGO "Center for Roma Initiatives" (CRINK) in 2014, women within their ethnic communities are exposed to violence by their father, brother, husband, parents in law, etc. Patriarchal tradition as well as alcohol, drugs, poverty, and low education are the most common reasons.

233. Also, forced marriages are one of the most serious problems women face in their early juvenile years. Strategy for Protection from Domestic Violence and Violence against Women 2016-2020 sets goals and measures to address this issue. According to CRINK and PD reports, in Annual Report on the Implementation of the Strategy against Violence, there were 16 cases of forced marriages in 2016.

234. When it comes to court data on processed cases of the criminal offense of common law marriage with a minor and the criminal offense of trafficking in human beings, the situation is as follows:

Year	*Criminal offense of common law marriage with a minor (number of cases)*	*Criminal offense of trafficking in human beings (number of cases)*
2012	9	-
2013	13	-
2014	5	1
2015	8	-
2016	9	-

235. MHMR in cooperation with NGO Center for Roma Initiatives organized in December 2013 a two-day seminar for representatives of PD, prosecutions, courts, centers for social work, and representatives of non-governmental organizations dealing with RE women's issues in Montenegrin society on "Legal Mechanisms in the Fight against Forced and Contracted Child Marriages", with a special accent on the RE population.

236. In relation to issue of forced marriages, there is also issue of trafficking in human beings. Over past period, Office for Combating Trafficking in Human Beings has conducted a significant number of trainings aimed at strengthening professional capacities of health, education, social workers, police, prosecution, judiciary, inspection services, Shelter for Foreigners and Asylum Centers, and others, who are involved in fight against trafficking in human beings, within which emphasis is on identifying and providing adequate assistance and protection.

237. In cooperation of Office for combating human trafficking and Institute for Social and Child Protection, from 1-3 July 2015, took place initial training for representatives of law enforcement authorities on the subject of "The fight against child trafficking, child begging and forced child marriages".

238. In addition, 10 two-day training sessions on "Strengthening the Multisectoral Approach to Combating Trafficking in Children, Child Begging and Forced Children's Marriages" were conducted, attended by a total of 155 representatives of institutions. Of total number of participants, 23 attended an additional three-day training that was conceived as a specialist training course for solving specific cases of trafficking in human beings through the presentation of case studies from domestic and international practice. In addition, Office for Combating Trafficking in Human Beings has accredited, at Institute for Education, a teacher training program on "Prevention through Education System of Early and Contractual Marriages and Economic Exploitation of Children".

239. Office for Combating Trafficking in Human Beings continuously conducts campaigns aimed at raising public awareness of phenomenon of trafficking in human beings, which is also one of the goals of Strategy for Combating Trafficking in Human Beings, which defines national policies in field of combating human trafficking. At the same time, in co-operation with Office of MHMR, PD, members of Roma Council, Center for Roma Initiatives and other non-governmental organizations, several one-day educations on problem of violence against women and child illegal marriages were organized. Education was intended for parents, children, RE activists and civil servants. In addition to education, campaigns were carried out in settlements where predominantly live members of RE population, during which were distributed informative fliers (on the territory of 10 Montenegrin municipalities).

240. In elaboration of this question, the starting point was made of the **Recommendation of the Committee No. 14 from the Final Consideration on the Combined Second and Third Report of Montenegro.**

The right to participate, under equal conditions, in cultural activities;

241. Basic principles of Convention on the Protection and Promotion of the Diversity of Cultural Expressions ratified by Montenegro in August 2008 are contained in Articles 3 and 5 of *Law on Culture*,[16] which foresee that culture of Montenegro is realized and developed on the principles of equal preservation of all cultural identities and respect for cultural diversity as well as that of public interest for the culture of Montenegro is the preservation of original and traditional cultural and ethno-cultural peculiarities.

242. In framework of implementation of Convention on the Protection and the Promotion of the Diversity of Cultural Expressions, in 2010, UNESCO project "Indicators of the impact of culture on development — CDIS" was implemented in Montenegro. Analysis of this project and the obtained indicators indicate that "there are opportunities at the national and municipal level for dialogue and representation of cultural workers and minorities in terms of designing and implementing cultural policies, measures and programs that relate to them, but that still can be achieved greater opportunities for participation of cultural workers at the local level".

243. As far as minority sub-indicators are concerned, the analysis found that there are several institutions at national level providing opportunities for minority participation in field of culture: Center for Preservation and Development of Minority Culture, Fund for

[16] Official Gazette of Montenegro ", No. 49/08.

Minorities — Parliament of Montenegro, as well as councils of minority nations in Montenegro. All bodies can be considered active and permanent, and their resolutions in terms of dialogue and national cultural policies are advisory. Such an institutional mechanism to encourage minority participation at the municipal level does not exist.

244. Regarding normative activities in culture, *Law on Cinematography* was adopted in 2015, while there was no change in field of information in respect to previous reporting period concerning freedom of expression and information, even though laws were amended (Amendments to the Law on Radio Diffusion Services in 2016, Amendments to the Law on Electronic Media).

245. Ministry of Culture in continuity through public competition encourages the development of cultural-artistic creativity. In accordance with the affirmation of the multinational and multicultural features that Montenegro inherits, one of the criteria for evaluating projects submitted to the public competition for co-financing cultural-artistic creation is also "contributing to the development of multinational and multicultural values", as well as "preserving tradition and Montenegrin cultural heritage".

246. Ministry of Culture, in cooperation with MHMR, each year announces a competition for the best research article published in the media on the topic "Social Integration of Roma in Montenegro", and in relation to that in the occasion of the 8 April, the day of Roma, traditionally organizes the award ceremony. Right to participate in the competition, have printed and electronic media registered in Montenegro. Purpose of the competition is to strengthen public awareness on integration of Roma population into the Montenegrin society and to encourage research reporting in all media about the inclusion of this and other minority national communities in Montenegro.

247. In addition, Ministry of Culture, under the commitments of Strategy, co-finances development of audio-visual content presenting key problems of integration of Roma population and progress made so far in this area.

248. In context of anti-discrimination policy and prevention of all forms of racial discrimination, as one of segments of the public competition, the area — Cultural Development in the North is realized with a tendency of balanced development of culture throughout the territory of Montenegro, cooperation and partnership in realization of programs and projects, exchange of programs among institutions of culture, protection and promotion of diversity of cultural expressions, presentation of original and traditional cultural and ethno-cultural characteristics, development of amateur cultural and artistic creativity, culture education, creation of conditions for the development of creative industries.

249. Also, in accordance with the obligations arising from previous Action Plans concerning the Media Presentation of "Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016-2020", Ministry of Culture — Media Directorate has realized audio-visual materials (TV spots, radio tunes) that are of extraordinary importance for raising public awareness on the position of RE population in the Montenegrin society.

250. Related to the promotion of RE culture through electronic media, following can be stated:

- The show in Romani language "Savore" is aired on RTCG since 2015, twice a month, aimed at preserving the culture of Roma and Egyptians. Thus, during 2016, 24 such shows were broadcast, bilingually with the translation into the Romani-Montenegrin language.
- Radio Tivat in cooperation with NGO "Democratic Roma Center" from Podgorica broadcasts a show in Montenegrin and Romani language "Track of the Soul". From 2012 to 2016, the show is been aired once a month. From 2017, the show is aired twice a week. The show lasts 35-40 minutes.
- Radio Herceg Novi has aired the "Krlo Romengo" show, from 2012 to 2015, where the life of Roma in Herceg Novi, their culture, education and health was presented. These shows in educational manner were including Roma children in the education

system. From 2016 Radio Herceg Novi broadcasts the show "Romano them" — "The World of Roma".

Court protection and review of Constitutionality and Legality

Article 6 of the Convention

251. Constitution of Montenegro in Articles 19 and 20 prescribes that everyone has the right to equal protection of his or her rights and freedoms, or to legal remedies against a decision on his or her right or interest based on law.

252. Code of Criminal Procedure prescribes the procedure for legal remedies, regular and extraordinary. Regular legal remedies are appeal against a verdict of the first instance court, appeal against a verdict of the second instance court and appeal against a decision. Extraordinary legal remedies prescribed by Code of Criminal Procedure are a request for the repetition of criminal proceedings, a request for extraordinary mitigation of punishment and request for protection of legality.

253. Law on Civil Procedure introduced a new institute of repetition of proceeding when the European Court of Human Rights has found a violation of human rights or fundamental freedoms guaranteed by European Convention for the Protection of Human Rights and Fundamental Freedoms.

254. Constitutional Court is competent to decide on constitutional complaints for violations of human rights and freedoms guaranteed by Constitution once all other effective remedies have been exhausted. Likewise, Constitutional Court is empowered to initiate the procedure of review of constitutionality and legality on the basis of the proposal of the authorized institutions, the initiative of any person or ex officio, to assess the compliance with Constitution and with confirmed and published international treaties.